

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF TEMPORARY)	PRELIMINARY ORDER RESCINDING
CHANGE TC-34-196 IN THE NAME)	TEMPORARY CHANGE AND
<u>OF JARED & JENNA TELFORD</u>)	CEASE AND DESIST ORDER

On June 29, 2021, Jared and Jenna Telford ("Telford") filed Temporary Change Application TC-34-196 ("Application TC-34-196"), proposing to change the point of diversion and place of use for a 52.5-acre portion of ten ground water irrigation rights¹. The proposed point of diversion is an existing ground water well. The proposed place of use is located in the NW1/4 of Section 15, T05N, R26E and is covered by water rights 34-13741 and 34-13743.

Water right 34-13741 bears a priority date of November 11, 1912 and authorizes the diversion of 0.32 cfs from the Big Lost River for the irrigation of 72 acres. Water right 34-13743 bears a priority date of June 30, 1886 and authorizes the diversion of 1.42 cfs from the Big Lost River for the irrigation of 72 acres. Water rights 34-13741 and 34-13743, in combination, are limited to the irrigation of 72 acres.

Telford provided the following responses on Application TC-34-196:

Question: Describe the proposed change(s) and explain the reason(s) they are needed:

Telford Response: Because of the drought, Applicant's surface water rights are not available. This application will move portions of ground water rights owned by Telford Lands, LLC to the proposed place of use.

Question: Describe the effect on the land now irrigated if the change is approved pursuant to this application:

Telford Response: It will not be irrigated.

Application TC-34-196 was signed by Telford's attorney, Luke Marchant. The application form includes the following declaration above the signature line:

I hereby assume all risk in accordance with Section 42-222A, Idaho Code, and assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.

¹ 34-2330B, 34-7077, 34-7080B, 34-7092, 34-7121A, 34-7121B, 34-7179, 34-12376, 34-13840 and 34-13842.

Application TC-34-196 was approved by the Department on July 1, 2021. The order approving Temporary Change TC-34-196 ("TC-34-196") included the following conditions:

The applicant assumes all risk of curtailment or mitigation should the diversion and use of water under the temporary change approval cause injury to other water rights, constitute an enlargement in use of the original right, be inconsistent with the conservation of water resources within the state of Idaho, or not be in the local public interest.

This temporary change approval may only be used to provide a replacement water supply to lands or other uses which normally have a full water supply, except for the drought condition. This temporary change approval may not be used to provide water for new development or to allow expansion of the use of water under existing rights.

This temporary change approval expires on November 1, 2021 unless rescinded or extended by the director.

On July 22, 2021, the watermaster for Water District 34 conducted a site inspection for the 52.5 acres to be dried up under TC-34-196. The watermaster observed that the acres to be dried up continued to be irrigated. Remote sensing data available to the Department shows that the 52.5 acres to be dried up were irrigated between July 2 and July 22, 2021. The place of use authorized by TC-34-196 was also irrigated during that time period. Irrigation of the approved place of use and the continued irrigation of the existing place of use under the ten water rights included in TC-34-196 has resulted in an enlargement under the ten water rights.

Consistent with the declaration made by the applicant and the conditions of approval under TC-34-196, the approval should be rescinded and the irrigation occurring at the proposed place of use in Section 15, T05N, R26E should be curtailed. The ten water rights included in TC-34-196 should be returned to their pre-approval point of diversion and place of use.

ORDER

IT IS HEREBY ORDERED that Temporary Change TC-34-196 is RESCINDED. The ten water rights included in the temporary change shall revert to the points of diversion and places of use existing prior to the temporary change.

Telford is ordered to cease and desist the irrigation of acres in the NW1/4 of Section 15, T05N R26E in the 2021 irrigation season until an active water right is identified or moved to the property to authorize such irrigation.

Dated this 23rd day of July 2021.



James Cefalo
Regional Manager

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of July 2021, true and correct copies of the documents described below were served by placing a copy of the same with the United States Postal Service, certified with return receipt requested, postage prepaid and properly addressed, to the following:

**Document Served: Preliminary Order Rescinding Temporary Change and
Cease and Desist Order**

LUKE MARCHANT
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83405-0130

JARED AND JENNA TELFORD
3198 W 2200 N
ARCO, ID 83213

Courtesy copy sent by regular mail to:

LUCAS YOCKEY
WATER DISTRICT 34
211 E CUSTER RD, STE B
MACKAY, ID 83251



Christina Henman
Administrative Assistant

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

LUKE MARCHANT
HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS, ID 83405-0130



9590 9402 6444 0346 9227 52

2. Article Number (Transfer from service label)

7020 2450 0002 0385 6266

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Dan Perry*☒ Agent☐ Addressee

B. Received by (Printed Name)

Dan Perry

C. Date of Delivery

*7/20/21*D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JARED AND JENNA TELFORD
3198 W 2200 N
ARCO, ID 83213



9590 9402 6444 0346 9227 45

2. Article Number (Transfer from service label)

7020 2450 0002 0385 6273

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Jenna Telford*☐ Agent☒ Addressee

B. Received by (Printed Name)

JENNA TELFORD

C. Date of Delivery

*7/29/21*D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt