

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

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT NO.: 74-338B)
_____)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-74-21

A drought emergency has been declared for Lemhi County to allow administrative actions to lessen the severe impacts of the drought conditions in the county; and

Idaho Code §42-222A provides that upon declaration of a drought emergency, the director of the Department of Water Resources is authorized to allow temporary changes in the point of diversion, the place of use, and the purpose of use for valid existing water rights when the director determines that such changes can be accomplished in accordance with the provisions of Idaho Code §42-222A; and

On July 9, 2021, James Whittaker submitted the attached Temporary Change Application to the Department; and

The Department has reviewed the application and has determined the application can be approved with certain conditions;

ORDER

IT IS HEREBY ORDERED that the application is APPROVED subject to the following conditions:

1. Diversion and use of Right No. 74-338B is authorized only at the point of diversion and place of use described on the application.
2. This temporary change approval does not authorize construction of a new well or diversion works as a new point of diversion.
3. 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.
4. 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 water rights.

5. Right Nos. 74-349, 74-1105, 74-338B and 74-15787 are limited to a total combined diversion rate of 9.20 cfs. Right Nos. 74-349, 74-388B, 74-1105, 74-15787, 74-15788, 74-157, 74-369, and 74-1136 are limited to the irrigation of a combined total of 724 acres in a single irrigation season.
6. This temporary approval does not authorize the use of diversion works or a delivery system owned by or managed by a corporation or an irrigation district without the consent of such corporation or irrigation district.
7. The applicant agrees to hold the Director and the State of Idaho harmless from all liability on account of the diversion and use of water under this temporary change approval.
8. This temporary change approval does not grant any right-of-way or easement to use the diversion works or conveyance works of another person or entity.
9. The watermaster of Water District No. 74Z is authorized to administer the temporary change approval.
10. This temporary change approval expires on November 15, 2021 unless rescinded or extended by the director. Thereafter, the water right shall revert to the point of diversion, place of use and nature of use existing prior to the temporary change approval.

DATED this 9th day of July, 2021.



James Cefalo
Eastern Region Manager

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUL 09 2021

TC-74-21

TEMPORARY CHANGE APPLICATION Department of Water Resources
Eastern Region

(To change point of diversion, place of use, or purpose of use of a water right upon
declaration of a drought emergency in accordance with Section 42-222A, Idaho Code.)

Name of Applicant James Whitaker Phone _____
Mailing Address PO Box 240 Leadore, ID 83464 Email _____

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change purpose of use ☐ Other

2. Describe the proposed change(s) and explain the reason(s) they are needed. Transfer water
to more productive ground to produce more hay
and feed to economically improve ~~during the drought~~ our
situation during the drought

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number Priority Amount Nature of Use Period of Use
(cfs/ac-ft)
74-0338B 11/1/1887 3.2 Irrigation 3/15 to 11/15
_____ to _____
_____ to _____
_____ to _____

2. Total amount of water being transferred 3.2 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Big Eightmile tributary to Lemhi River

4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag number
<u>15N</u>	<u>25E</u>	<u>8</u>		<u>NE</u>	<u>NW</u>		<u>Lemhi</u>	<u>Big Eightmile</u>	<u>Power Plant Diversion</u>

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
<u>16N</u>	<u>25E</u>	<u>26</u>									<u>32.2</u>								
<u>16N</u>	<u>25E</u>	<u>26</u>										<u>32.2</u>							
<u>16N</u>	<u>25E</u>	<u>27</u>																<u>32.2</u>	
<u>16N</u>	<u>25E</u>	<u>27</u>												<u>32.2</u>					

Total Acres 128.9

6. General Information:

- a. Who owns the water right to be changed? James Whitaker
- b. Describe the arrangement allowing use of the right. Owner of Right
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Dry up
- d. Has the water right sought to be transferred been used this year? ☒ Yes ☐ No If yes, explain. _____
- e. Absent the changes, how would the right be used for the remainder of the year? Irrigate on existing place of use
- f. Describe other water rights used for the same purpose. 74-0341
- g. Remarks: _____

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.

James Whitaker
Signature of Applicant

6/29/2021
Date

FOR DEPARTMENT USE ONLY

Received by M. Pettis Date 7-9-21 \$50 fee receipted by M. Pettis Receipt No. E047155
Recommend: ☒ approve ☐ deny Watermaster recommendation MERRITT UDY APPROVED VIA TELEPHONE

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

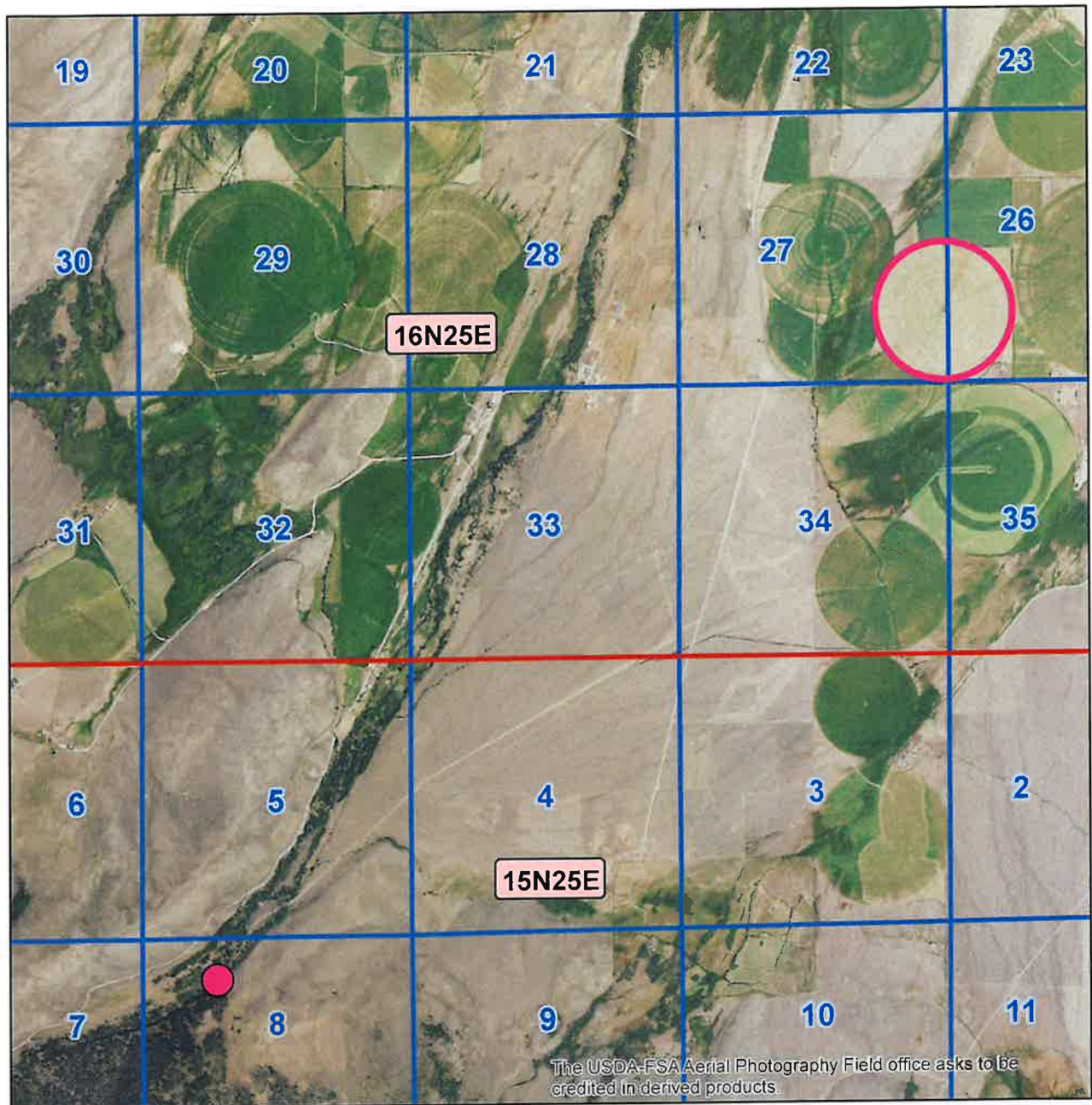
This is to certify that I have examined Temporary Change Application No. _____, and said application is hereby _____, subject to the following limitations and conditions:

Temporary Change Expiration Date _____

Signed this _____ day of _____, _____

For the Director

Whittaker Temporary Change Application Water Right 74-338B



 Township/Range
 Sections

0 2,000 4,000 8,000 Feet

