

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

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT NO.: 74-15928 &)
74-15929)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-74-20

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 1, 2021, Kurt and Janet Bird 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 the changed portions of Right No(s). 74-15928 and 74-15929 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 74-15928 is limited to the irrigation of 564.3 acres within the authorized places of use in a single irrigation season. Rights 74-15926 and 74-15928 when combined shall not exceed a total diversion rate of 24.2 cfs and the irrigation of 799.5 acres. Rights 74-32, 74-15926, and 74-15928 when combined shall not exceed a total diversion rate of 27.44 cfs and the irrigation of 799.5 acres. Right 74-15929 is limited to the irrigation of 90 acres within the authorized place of use in a single irrigation season. Rights 74-15927 and 74-15929 when combined shall not exceed a total diversion rate of 3.6 cfs. Rights 74-15927, 74-15929, and 74-15931 when combined shall not exceed a total diversion rate of 4.02 cfs and the irrigation of 140 acres. Rights 74-32, 74-34, 74-7165, 74-15926, 74-15927, 74-15928, 74-15929, 74-15930 and 74-15931 when combined shall not exceed a total diversion rate of 46.37 cfs and the irrigation of 1554.5 acres.
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. 74W is authorized to administer the temporary change approval.
10. This temporary change approval expires on October 31, 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 7th day of July, 2021.


James Cefalo
Eastern Region Manager

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

JUN 03 2021

Department of Water Resources
Eastern Region

TC-74-20

TEMPORARY CHANGE APPLICATION

(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 Kurt Bird and Janet Bird Phone 208-303-0055
Mailing Address 56 Lower Texas Creek Road, Leadore, ID 83464 Email bigbird@centurytel.net

A. PURPOSE OF TRANSFER

- ☐ Change point of diversion
 ☐ Add diversion point(s)
 ☒ Change place of use
 ☒ Change purpose of use
 ☐ Other
- Describe the proposed change(s) and explain the reason(s) they are needed. _____
Change the place of use for water right 74-15928 and 74-15929 to cover the ground irrigated under Permit 74-16187. This ground usually has 2-3 weeks of water available, but will have little or no water this year because of drought. The storage authorized under 74-15928 will not be stored, but will be used for direct irrigation.

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

- | Right Number | Priority | Amount
(cfs/ac-ft) | Nature of Use | Period of Use |
|-----------------|------------------|-----------------------|-------------------|-----------------------------|
| <u>74-15928</u> | <u>4/10/1909</u> | <u>62.4 af</u> | <u>Irrigation</u> | <u>3/15</u> to <u>10/31</u> |
| <u>74-15929</u> | <u>4/10/1909</u> | <u>2.60 cfs</u> | <u>Irrigation</u> | <u>3/15</u> to <u>10/31</u> |
| _____ | _____ | _____ | _____ | _____ to _____ |
| _____ | _____ | _____ | _____ | _____ to _____ |
- Total amount of water being transferred 2.60 cubic feet per second and/or _____ acre-feet per annum.
- Source of water Big Timber Creek tributary to Lemhi River
- Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
							No Change.		

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	26E	9									31.2	31.2	31.3	31.3					125

Total Acres 125

6. General Information:

- a. Who owns the water right to be changed? Applicants
- b. Describe the arrangement allowing use of the right. N/A
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Acres identified in blue on map will be dried up this year and have not been irrigated this year.
- 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? We would use the rights in our existing irrigation system.
- f. Describe other water rights used for the same purpose. Permit 74-16187
- g. Remarks: Due to the drought conditions, Permit 74-16187 will likely not be available this year. This permit would provide 2-3 weeks of water in an average year. We would like to shift our senior rights over to provide 2-3 weeks of irrigation for a recently installed pivot.

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.

Kurt Bird
Signature of Applicant

6-3-2021
Date

FOR DEPARTMENT USE ONLY

Received by CAH Date 6/3/21 \$50 fee receipted by CAH Receipt No. E047036
Recommend: ☐ approve ☐ deny Watermaster recommendation NO RESPONSE

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

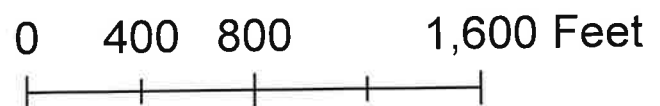
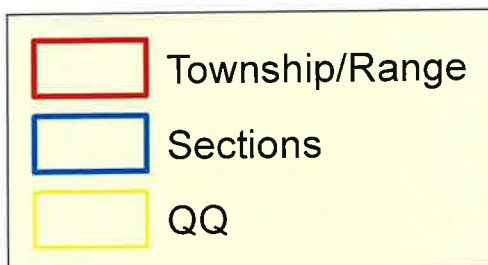
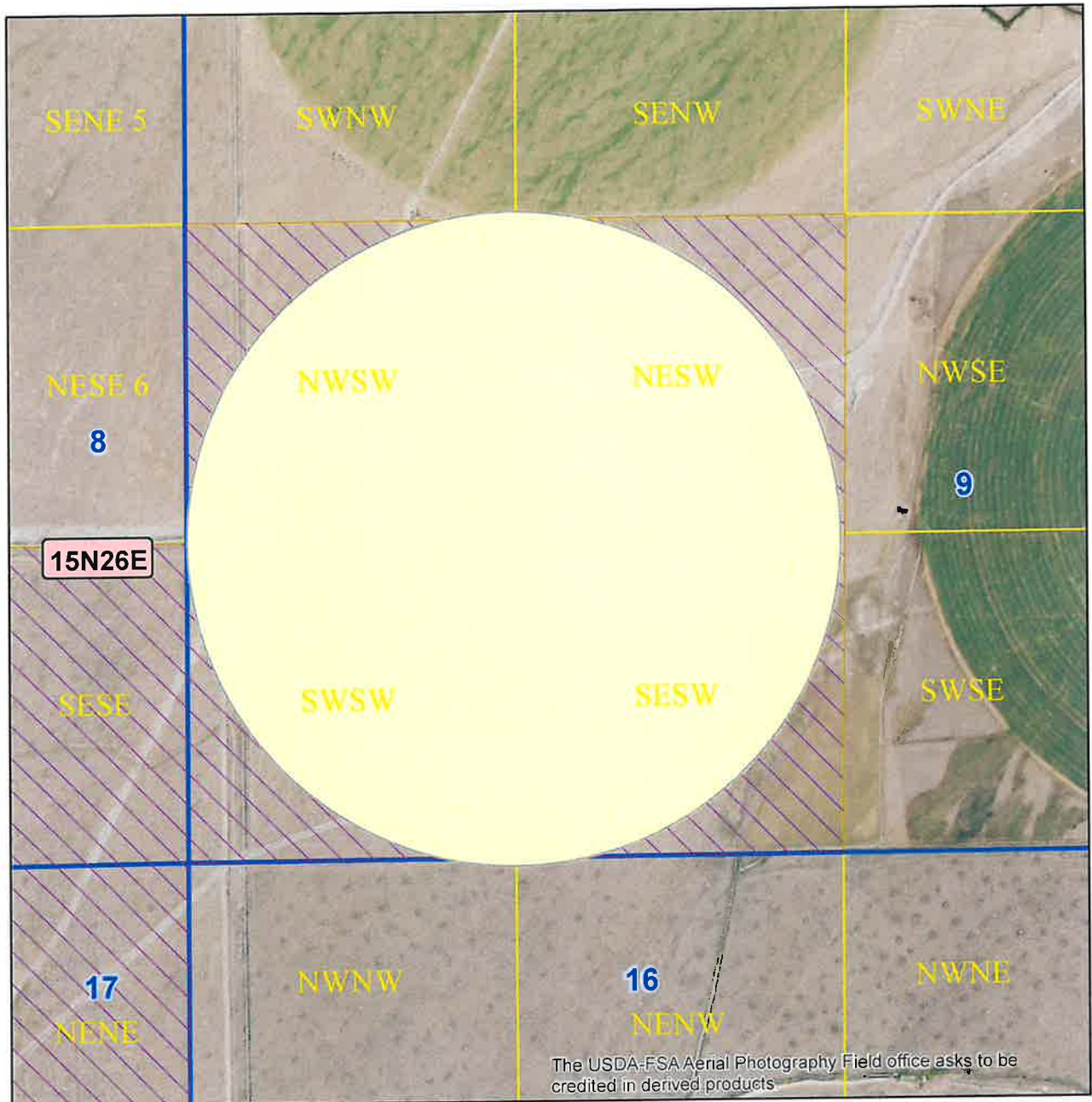
This is to certify that I have examined Temporary Change Application No. _____, and said application is hereby _____, subject to the following limitations and conditions:

Temporary Change Expiration Date _____

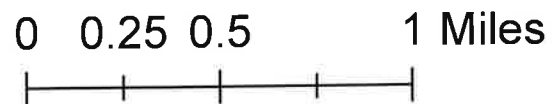
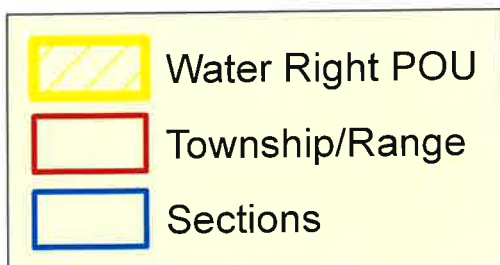
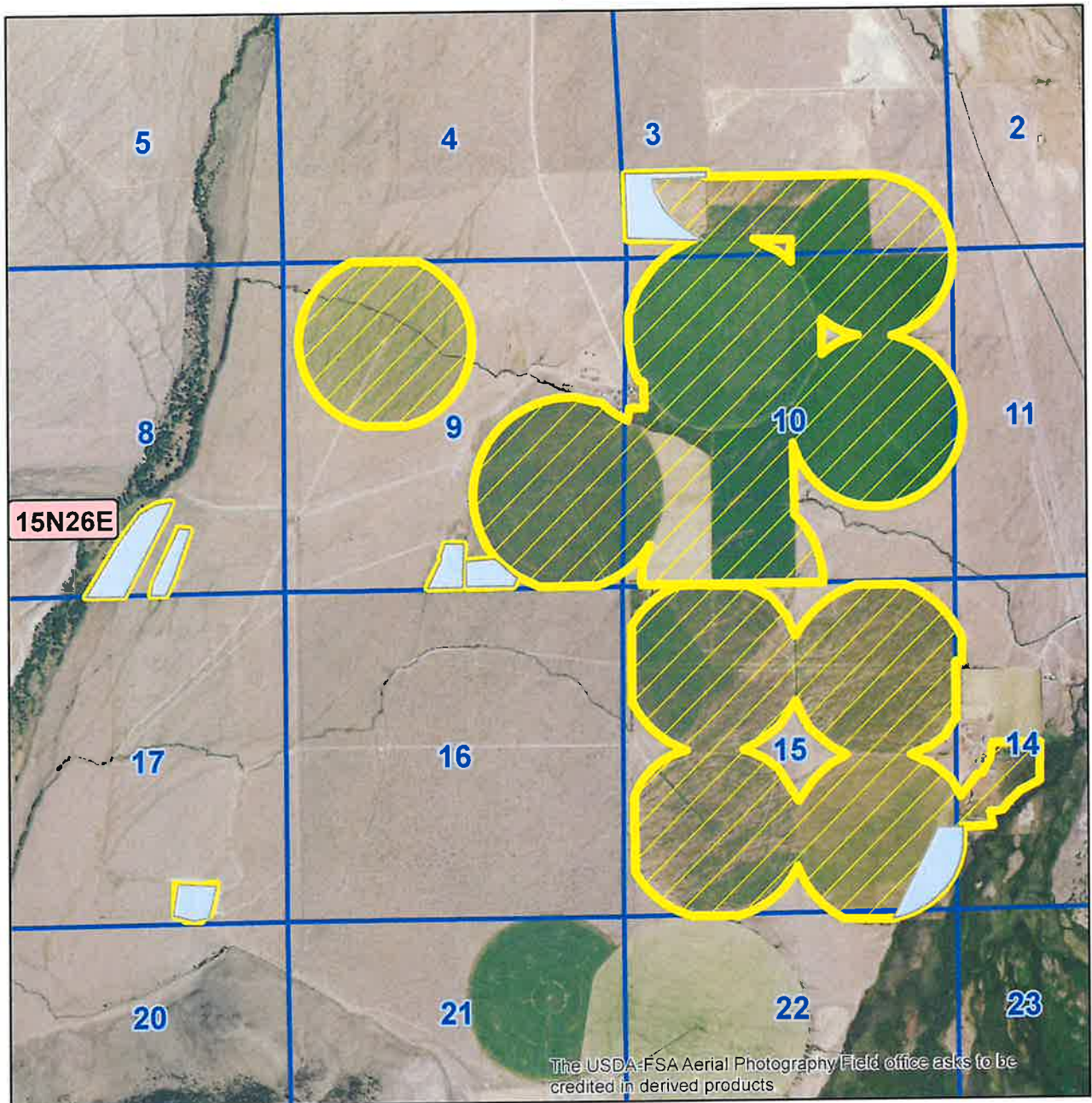
Signed this _____ day of _____, _____

For the Director

Kurt Bird Drought Emergency Transfer Proposed Place of Use



Kurt Bird Drought Emergency Transfer Dried Up Acres



IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

6/3/2021

Water Right 74-15928

Owner Type **Name and Address**
Current Owner KURT W BIRD
56 LOWER TEXAS CREEK RD
LEADORE, ID 83464

Current Owner JANET E BIRD
56 LOWER TEXAS CREEK RD
LEADORE, ID 83464

Priority Date: 4/10/1909

Basis: Decreed

Status: Active

Source
BIG TIMBER CREEK

Tributary
LEMHI RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/15	11/15	22.640 CFS	
IRRIGATION STORAGE	03/15	11/15		62.4 AF
IRRIGATION FROM STORAGE	03/15	11/15		62.4 AF
DIVERSION TO STORAGE	03/15	11/15	1.560 CFS	
Total Diversion			24.200 CFS	62.4 AF

Source and Point(s) of Diversion

BIG TIMBER CREEK SWNW Sec. 20, Twp 15N, Rge 26E, LEMHI County

Place Of Use

IRRIGATION within LEMHI County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	26E	3											33.8	36.0			37.0	29.0	135.8
15N	26E	8											4.0		1.0	18.0			23.0
15N	26E	9		3.5	6.8	10.0	38.9	27.0	25.5	38.0			4.2	40.0	28.0	28.9	39.0		289.8
15N	26E	10	33.0	38.0	38.0	34.0	39.0	33.7	34.7	40.0	40.0	40.0	37.0	40.0	38.0	34.5	11.1	1.5	532.5
15N	26E	14						1.0				24.8	1.0						26.8
15N	26E	15	33.6	30.5	35.0	39.0	36.0	31.8	30.0	36.5	36.5	30.5	29.7	36.9	34.9	30.9	34.9	36.9	543.6
15N	26E	22	1.5	1.5															3.0

Right Acre Limit: 564.3

POU Total Acres: 1,554.5

IRRIGATION STORAGE within LEMHI County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	26E	17															X	X	

IDAHO DEPARTMENT OF WATER RESOURCES
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IRRIGATION FROM STORAGE within LEMHI County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	26E	3											33.8	36.0			37.0	29.0	135.8
15N	26E	8											4.0			1.0	18.0		23.0
15N	26E	9		3.5	6.8	10.0	38.9	27.0	25.5	38.0				4.2	40.0	28.0	28.9	39.0	289.8
15N	26E	10	33.0	38.0	38.0	34.0	39.0	33.7	34.7	40.0	40.0	40.0	37.0	40.0	38.0	34.5	11.1	1.5	532.5
15N	26E	14						1.0				24.8	1.0						26.8
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15N	26E	22	1.5	1.5															3.0

POU Total Acres: 1,554.5

Conditions of Approval:

1. X27 This right is limited to the irrigation of 564.3 acres within the authorized place of use in a single irrigation season.
2. X35 Rights 74-15926 and 74-15928 when combined shall not exceed a total diversion rate of 24.2 cfs and the irrigation of 799.5 acres.
3. X35 Rights 74-32, 74-15926, and 74-15928 when combined shall not exceed a total diversion rate of 27.44 cfs and the irrigation of 799.5 acres.
4. X35 Rights 74-32, 74-34, 74-7165, 74-15926, 74-15927, 74-15928, 74-15929, 74-15930 and 74-15931 when combined shall not exceed a total diversion rate of 46.37 cfs and the irrigation of 1554.5 acres.
5. 219 Right(s) 74-7165 and 74-15928 authorize the diversion of an annual total of 72.0 af to be used for the initial filling of the pond and for the replacement of losses caused by evaporation.
6. 220 The pond established by the storage of water under rights 74-7165 and 74-15928 shall not exceed a total capacity of 60 acre-feet or a total surface area of 7 acres.
7. K01 Right No. 74-15926 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
8. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74W.
9. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
10. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
11. 029 Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
12. R40 The storage of water under this right is contingent upon continued certification by the Department of Water Resources under the dam safety provisions of the Idaho Code, authorizing storage.
13. 18B The impoundment of water under this right is contingent upon the issuance of a certificate of approval per the dam safety provisions of Idaho Code and subsequent written authorization by the dam safety program administered by the Department.
14. 004 This right does not grant any right-of-way or easement across the land of another.
15. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
16. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the

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17. T19 Director to rescind approval of the transfer.
Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

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Water Right 74-15929

Owner Type **Name and Address**
Current Owner KURT W BIRD
56 LOWER TEXAS CREEK RD
LEADORE, ID 83464

Current Owner JANET E BIRD
56 LOWER TEXAS CREEK RD
LEADORE, ID 83464

Priority Date: 4/10/1909

Basis: Decreed

Status: Active

Source
BIG TIMBER CREEK

Tributary
LEMHI RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	3.600 CFS	
	<u>Total Diversion</u>		3.600 CFS	

Source and Point(s) of Diversion

BIG TIMBER CREEK	SWNW	Sec. 20, Twp 15N, Rge 26E,	LEMHI County
BIG TIMBER CREEK	SWNW	Sec. 20, Twp 15N, Rge 26E,	LEMHI County

Place Of Use

IRRIGATION within LEMHI County

Twp	Rng	Sec	NE				NW				SW				SE				Totals
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15N	26E	14						1.0				24.8	1.0						26.8
15N	26E	15	33.6	30.5	35.0	39.0	36.0	31.8	30.0	36.5	36.5	30.5	29.7	36.9	34.9	30.9	34.9	36.9	543.6
15N	26E	22	1.5	1.5															3.0

Right Acre Limit: 90.0

POU Total Acres: 1,554.5

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3. X35 Rights 74-15927, 74-15929, and 74-15931 when combined shall not exceed a total diversion rate of 4.02 cfs and the irrigation of 140 acres.

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4. X35 Rights 74-32, 74-34, 74-7165, 74-15926, 74-15927, 74-15928, 74-15929, 74-15930 and 74-15931 when combined shall not exceed a total diversion rate of 46.37 cfs and the irrigation of 1554.5 acres.
5. R05 Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 74W.
6. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
7. R59 This right when combined with all other rights shall provide no more than 3.5 afa per acre at the field headgate for irrigation of the lands above.
8. K01 Right No. 74-15927 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.
9. 029 Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
10. 004 This right does not grant any right-of-way or easement across the land of another.
11. T07 The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
12. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
13. T19 Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.