

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

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT NOS.: 34-7205 &)
34-14346)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-34-183

WHEREAS, a drought emergency has been declared for Butte County to allow administrative actions to lessen the severe impacts of the drought conditions in the county; and

WHEREAS, section 42-222A, Idaho Code, provides that upon declaration of a drought emergency, the director of the Department of Water Resources (“Department”) is authorized to allow temporary changes in the point of diversion, the place of use, and the purposes of use for valid existing water rights or temporary exchanges of water authorized under water rights when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, Idaho Code; and

WHEREAS, on May 12, 2021, Mike and Shannon Telford and Sunset Farm & Ranch LLC submitted the attached temporary change application TC-34-183 to the Department; and

WHEREAS, 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 nos. 34-7205 and 34-14346 is authorized only at the points of diversion and place of use described on the application.
2. This temporary change approval may only be used to provide a replacement water supply to lands or other uses that normally have a full water supply, except for the drought conditions. 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.
3. This temporary change approval does not authorize construction of a new well as a point of diversion.
4. 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.

ORDER AUTHORIZING
TEMPORARY CHANGE

TC-34-183

5. Right 34-14346 is limited to the irrigation of 38.3 acres within the authorized place of use. Rights 34-7205, 34-14346, and 34-14347 when combined shall not exceed a total diversion rate of 5.37 cfs and the irrigation of 177 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 written consent of such corporation or irrigation district.
7. The applicants agree 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 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. 34 is authorized to administer the temporary change approval.
10. This temporary change approval expires on November 1, 2021 unless rescinded or extended by the director. Thereafter, the water rights shall revert to the point of diversion, place of use, and nature of use existing prior to the temporary change approval.

DATED this 19th day of May, 2021.



James Cefalo
Eastern Regional Manager

MAY 12 2021

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDepartment of Water Resources
Eastern Region

TC-34-183

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 Mike and Shannon Telford, Sunset Farm and Ranch, LLC Phone _____Mailing Address 1450 W. Highway 24, Paul, ID 83347 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. _____

This application will change the place of use of Water Right Nos. 34-7205 and 34-14346.

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

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>34-7205</u>	<u>8/01/1977</u>	<u>4.62 cfs</u>	<u>Irrigation</u>	<u>04/01</u> to <u>11/01</u>
<u>34-14346</u>	<u>8/12/1966</u>	<u>0.38 cfs</u>	<u>Irrigation</u>	<u>04/01</u> to <u>11/01</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 5.37 5.00 cubic feet per second and/or _____ acre-feet per annum.3. Source of water Ground water tributary to _____.

4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag number
03N	27E	05	4	NW	NW	NW	Butte	Ground Water	POD for 34-14346
04N	26E	03		SW	SW	SE	Butte	Ground water	POD for 34-7205

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	
03N	27E	08			17	20					33	29			38	33	3	4	177

Total Acres 177

6. General Information:

- a. Who owns the water right to be changed? The Applicant is leasing the place of use and water rights.
- b. Describe the arrangement allowing use of the right. The Applicant has a lease for the water rights and their associated place of use. The lease is attached.
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
The current place of use will be dried 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? The water right would be used at its authorized place of use.
- f. Describe other water rights used for the same purpose. Surface water rights not available due to drought.
- 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.

Robert L. Harris
Signature of Applicant

May 11, 2021
Date

FOR DEPARTMENT USE ONLY

Received by CAH Date 5/12/21 \$50 fee received by CAH Receipt No. E046942 (*100 check)
Recommend: ☐ approve ☐ deny Watermaster recommendation _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

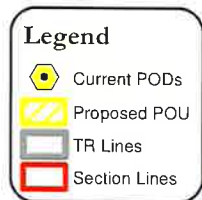
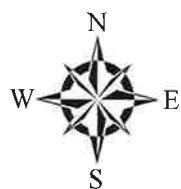
This is to certify that I have examined Temporary Change Application No. _____, and said application is hereby _____, subject to the following limitations and conditions:

Temporary Change Expiration Date _____

Signed this _____ day of _____.

For the Director

SUNSET FARM AND RANCH, LLC - Temp. Change Application



2019 NAIP Photo



Prepared by:
Luke H. Marchant
05/11/2021

LEASE AGREEMENT AND OPTION TO PURCHASE

THIS AGREEMENT made and entered into with Lost River Farms LLC
2885 Trestle Creek Rd Hope, Idaho 83836 hereinafter referred to as
Lessor, and Mike Telford and Shannon Telford, husband and wife, of
1456 West Highway 24, Paul, Idaho 83347, hereinafter referred to as
Lessee;

WITNESSETH:

1. The Lessor does hereby lease unto the Lessee and the Lessee does hereby agree to lease from the Lessor, upon the terms, covenants and conditions hereinafter set forth, that a certain parcel of real property located in Butte County, Idaho, and described as follows:

See Exhibit "A" attached hereto.

Said leased premises consist of approximately 138 farmable acres of farm ground, including all water and water rights appurtenant to and located on the premises.

2. The Lessor does hereby lease said real property hereinafter called the leased premises, unto the Lessee for the term beginning on April 1, 2019 and ending at noon on the 31st day of December, 2023.

3. That the annual rental to be paid therefor shall be as follows:

On or before April 1, 2019 the sum of \$ 13,000.00
On or before December 31, 2019 the sum of \$12,000.00
On or before April 1, 2020 the sum of \$ 13,000.00
On or before December 31, 2020 the sum of \$12,000.00
On or before April 1, 2021 the sum of \$ 13,000.00
On or before December 31, 2021 the sum of \$12,000.00
On or before April 1, 2022 the sum of \$ 13,000.00
On or before December 31, 2022 the sum of \$12,000.00
On or before April 1, 2023 the sum of \$ 13,000.00
On or before December 31, 2023 the sum of \$12,000.00

4. THE LESSEE PROMISES AND AGREES:

a. To pay in addition to the annual rents stated above any and all costs, associated with the growing and harvesting of crops on the premises, including any and all water costs through the Big Lost River Irrigation District and Water District 34 together with any subsequent irrigation districts that may occur and power costs prior to any delinquency and to farm the premises in a good and farmer like manner commencing with the 2019 farm year and each year thereafter of this lease agreement.

b. To maintain the premises and fencing in a neat and orderly condition and not to allow the same to become unsightly.

c. To maintain liability or renters insurance on the premises and casualty insurance on the irrigation equipment during the term of this agreement.

d. To hold the Lessor harmless from any and all liability related to the Lessee's use of the premises, including but not limited to, environmental hazards or spills which occur during the term of the lease.

e. To pay all repairs and maintenance on the irrigation system, including pump, motor, panel well and fencing.

5. THE LESSOR PROMISES AND AGREES:

a. To furnish the leased premises and to let the Lessee into possession of said premises on or before April 1, 2019 and permit the Lessee the quiet and peaceful possession of the leased premises so long as the Lessee abides by the terms of this agreement.

b. To pay all real property taxes associated with the premises in a timely manner.

6. IT IS MUTUALLY AGREED:

a. Lessor has fully informed Lessee of all past chemical use which Lessor is able to recall utilizing on the leased premises. Lessee agrees that they are taking the premises "as is" and that Lessee has conducted whatever inspection and examination of the leased premises and irrigation system which Lessee believes to be prudent.

b. If the Lessee fails or neglects to perform any of the covenants or conditions or fails to make the rental payments when due, the Lessor may at Lessor's option terminate this Agreement and re-enter said lease premises. In the case of any such default, the rent and additional rentals shall become due thereupon and be paid up to

the time of such default and Lessor may relet the premises or any part thereof. Lessee or the legal representative of Lessee shall also pay to Lessor as liquidated damages for the failure of Lessee to observe and perform said Lessee's covenants herein contained. Any such liquidated damages shall be paid in installments by Lessee on the rent date specified in this lease and any suite brought to collect the amount of deficiency of any payment shall not prejudice in any way the rights of Lessor to collect the deficiency for any subsequent payments by a similar proceeding.

c. Lessor shall have the right during the term hereof to enter said premises at reasonable times to inspect the same.

7. This agreement shall be binding on the heirs, personal representatives and assigns of the parties.

8. In the event of default by the Lessee, the Lessor shall give to Lessee thirty (30) days written notice of the default and if the default or defaults are not cured within such thirty (30) day period then this lease agreement shall be terminated and Lessor shall be entitled to re-enter the premises.

9. Lessee may sublet all or any portion of the leased premises with Lessor's prior written consent which Lessor will not unreasonably withhold. Lessee shall remain primarily obligated to perform all the terms and conditions of this Lease Agreement during any such sub-lease unless the Lessor expressly consents in writing to release the Lessee from such obligations.

10. Provided Lessee has no defaults under the Lease term, Lessor hereby grants to the Lessee an agreement to purchase the premises at the end of the lease period under the following terms and conditions:

a. The purchase price for the real and personal property shall be the total sum of \$250,000.00.

b. The balance of the purchase price at Lessee's election may either be evidenced by a " Contract Of Sale " or a Promissory Note secured by a Real Estate Mortgage on the premises which shall be amortized over twenty (20) years utilizing an interest rate of four and one-half percent (4.5%) with the first annual payment due on or before April 1, 2024 and subsequent payments due on or before April 1 of each year thereafter with a final balloon payment due April 1, 2028 wherein the balance together with any accrued interest will be paid in full.

All payments shall be applied first to accrued interest with the balance applied to reduction of principal. Prepayment shall be allowed at any time without penalty. Lessor may call the note due anytime during the 5 yr. term with one year written notice.

c. The option shall be exercised on or before March 1, 2023 and shall be evidenced by a written notice signed by the Lessee and submitted to Lessor. Lessee shall exercise the option by giving to the Lessor written notice on or before January 1, 2023 of their intent to exercise the option to purchase. Lessor shall then

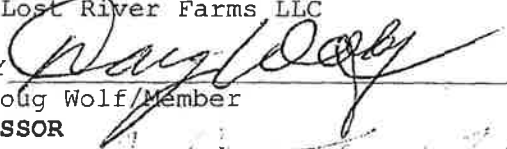
obtain a commitment for title insurance and provide the same to Lessee. The closing of the transaction shall be done by Title One, Arco, Idaho or such other title company as the parties may agree and said closing shall occur on or before March 1, 2023.

d. Lessor shall provide title insurance showing the premises to be free and clear of all liens at the time of Closing and Lessor shall convey the Real property by Warranty Deed and personal property conveyed by Bill of Sale; duly executed by Lessor.

e. All closing costs shall be shared equally by the Lessor and Lessee.

11. This agreement shall be binding on the successors, heirs and assigns of the parties hereto.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

By _____
Lost River Farms LLC
BY 
Doug Wolf/Member
LESSOR

By 
Mike Telford

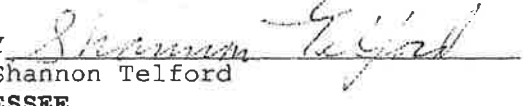
BY 
Shannon Telford
LESSEE

EXHIBIT "A"

PARCEL I:

Township 3 North, Range 27 East of the Boise Meridian, Butte County, Idaho

Section 5: A parcel of land generally described as being all of Lot 3, Section 5, and portions of Lot 4, said Section 5, a portion of the SW1/4NW1/4 of said Section 5, and a portion of the SE1/4NW1/4 of said Section 5, said parcel of land being more particularly described as follows:

Beginning at the Northwest corner of said Section 5, (said corner being monumented by a standard G.L.O. pipe and brass cap monument);
thence S. 00°02'24" W., along the West boundary of the NW1/4 of said Section 5, a distance of 799.38 feet to a one-half inch diameter steel rod;
thence S. 47°53'21" E., a distance of 418.74 feet to a one-half inch diameter steel rod;
thence S. 19°06'10" W., a distance of 228.38 feet to a one-half inch diameter steel rod on the Easterly boundary of road right-of-way as defined by an existing fence line;
thence S. 46°45'47" E., along the Easterly boundary of said road right-of-way, a distance of 1,052.75 feet to a point from which the Northwest corner of said Section 5 bears S. 46°45'47" E., a distance of 159.61 feet and N. 27°44'46" W., a distance of 2402.78 feet;
thence N. 46°45'47" E., a distance of 235 feet;
thence S. 64°00" E., a distance of 602 feet, more or less, to an existing fence corner at the Westerly toe of an existing canal bank;
thence S. 31°30'55" E., a distance of 98.0 feet, more or less, along said canal to a found one-half inch diameter steel rod at an existing fence corner;
thence along said fence line the following four courses:
S. 55°40'24" E., 72.08 feet;
S. 74°21'29" E., 218.05 feet;
S. 42°31'52" E., 67.60 feet;
S. 06°59'16" E., 189.33 feet to the South boundary of the NW1/4 of the said Section 5;
thence N. 88°54'24" E., along the South boundary of the NW1/4 of said Section 5, a distance of 528.39 feet to the Center 1/4 Corner of said Section 5;
thence N. 00°26'31" E., along the East boundary of the NW1/4 of said Section 5, a distance of 2539.01 feet to the N1/4 Corner of said Section 5;
thence S. 89°50'48" W., along the North boundary of the NW1/4 of said Section 5, a distance of 2539.28 feet to the standard corner common to Sections 31 and 32, T4N, R27 EBM (said corner being monumented by a G.L.O. pipe and brass cap monument);
thence S. 89°41'38" W., along the North boundary of the NW1/4 of said Section 5, a distance of 125.40 feet to the Northwest corner of said Section 5, and the Point of Beginning.

The above described parcel of land is SUBJECT TO the following FOUR Easements:

- 1. A 15 foot wide Easement to a culinary wellsite, pump and pipes for maintenance and repairs. Said Easement beginning S.00°02'24" W., a distance of 1,073.98 feet and S. 46°45'47" E., a distance of 854.07 feet from the Northwest corner of Section 5, Township 3 North, Range 27 E.B.M.; thence N. 46°45'47" E., a distance of 48 feet, more or less, to said wellsite and beginning of easement. Thence continuing S. 46°45'47" E, parallel to an existing fence line, a distance of 522.81 feet, more or less, to the Northwest boundary line of the Rasmussen property described in Quitclaim Deed, Instrument No. 46148, recorded November 12, 2008, and End of Easement.**
- 2. A Prescriptive Easement for the purpose of maintaining an existing irrigation canal.**
- 3. County Road Right-of-Way Easements adjoining the Southerly and Easterly boundaries thereof.**
- 4. Other Easements of record or by prescription.**

INCLUDING a 15 foot wide Easement for Irrigation Water and Wellsite in the SW1/4SE1/4, Section 3, Township 4 North, Range 26 E.B.M. as contained in Agreement recorded December 1, 1977, Instrument No. M-6395, records of Butte County, Idaho. Corrected and re-recorded December 15, 1977, Instrument No. M-6420, records of Butte County, Idaho.

PARCEL II:

Township 3 North, Range 27 East of the Boise Meridian, Butte County, Idaho

Section 5: NE1/4SE1/4 and that portion of the NW1/4SE1/4 lying North and East of the Union Pacific Railroad right-of-way and that portion of the NE1/4SW1/4 lying North and East of the Arco Canal.

EXCEPTING the Quist Ditch.

ALSO EXCEPTING the North 80 feet.

ALSO EXCEPTING existing public road rights-of-way.

ALSO EXCEPTING any portion lying within the following described parcel:

That portion of the SW1/4SE1/4 and the NW1/4SE1/4 of Section 5, Township 3 North, Range 27 East of the Boise Meridian, Butte County, Idaho, described as follows:

Beginning at a point that is South 1312 feet from the E1/4 Corner of said Section, thence West 1357 feet to the True Point of Beginning; thence North 335 feet; thence West 1325 feet to the Easterly boundary of the former State Highway; thence along said Easterly boundary of the former State Highway in a Southeasterly direction 1451 feet; thence East 40 feet; thence North 750 feet; thence East 320 feet to the True Point of Beginning.

INCLUDING an Access Easement for Ingress and Egress to the NW1/4SE1/4, Section 5, Township 3 North, Range 27 E.B.M., through that portion of the NE1/4SW1/4 of said Section 5 described as follows:

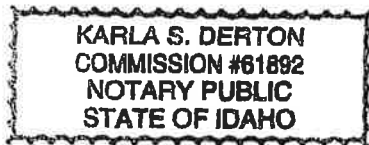
A 20 foot wide Access Easement beginning at the East boundary of the county road (Highway Drive) and the most Southeast corner of the said NE1/4SW1/4 lying East of the county road; thence in an Easterly direction to a point 335 feet North, more or less, from the Southwest corner of the NW1/4SE1/4 of said Section 5 and the end of said Access Easement.

STATE OF IDAHO

County of ~~Batte~~ Bonner

On this 24th day of April, 2019, before me the undersigned notary public in and for said state, personally appeared, Douglas Frances Wolf ~~Husband and Wife~~, known or identified to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



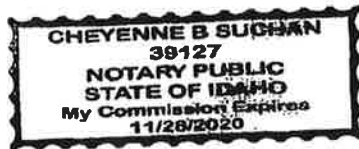
Karla S. Derton
Notary Public
Residing at Rathdrum, ID
My Commission expires 7-15-19

STATE OF IDAHO

County of Minidoka

On this 3rd day of April, 2019, before me the undersigned notary public in and for said state, personally appeared Mike Telford and Shannon Telford, Husband and Wife, known or identified to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Cheyenne B. Suchan
Notary Public
Residing at Pan D
My Commission Expires _____

GRANT OF CANAL EASEMENT

THIS INDENTURE, made this 4 day of Dec, 2019, by and between, Lost River Farms LLC 2885 Trestle Creek Road, Hope Idaho 83836 hereinafter referred to as "GRANTOR", and Big Lost River Irrigation District Mackay Idaho 83251, hereinafter referred to as "GRANTEE".

WITNESSETH

That the GRANTOR, for and in consideration does hereby grant and convey unto GRANTEES, their heirs, assignees and successors in interest, a perpetual easement in Butte County, Idaho described as follows:

A Canal easement :

To reroute the existing Arco Canal to run near the north boundary of the property (legal description attached as exhibit "A") to reenter the existing Arco canal as necessary for the water to flow adequately. This easement to include all rights that the current prescriptive canal easement has to the described property in exhibit "A" as well as all easement rights provided to Idaho Irrigation Districts in Idaho statutes.

Signed: Lost River Farms LLC

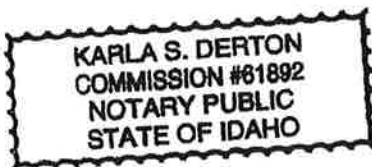
BY Douglas F Wolf

STATE OF IDAHO

County of Bonner

On this 4th day of December, 2019, before me the undersigned notary public in and for the said state, personally appeared Douglas F Wolf, known or identified to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Karla S Derton

Notary Public

Residing at Rathdrum, ID

My Commission expires 7-15-25

12/99

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

RECOMMENDATION OF WATERMASTER

Application No: TC-34-183Applicant's Name: MIKE + SHANNON TELFORD; SUNSET FARM + RANCH

Watermaster's Recommendation:

a) LY I do not oppose approval of this application.

b) I do not oppose approval of this application if it is conditioned as follows: _____

c) I oppose approval of this application for the following reasons:

d) Additional Comment: _____

Dated this 14 day of May, 2021Water District No: 34
Watermaster's Signature

Use reverse side of page if you need more space.

Holliday, Michael

From: Lucas Yockey <watermaster34@atcnet.net>
Sent: Friday, May 14, 2021 12:11 PM
To: Holliday, Michael
Subject: RE: Sunset temp change amendment

Michael,

The Big Lost River Irrigation District does not appose TC_34-183, TC_34-182 or TC_34-181.

Thank you

Lucas Yockey
BLRID General Manager