

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

2013

**IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT 74-1556)**

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-74-16

WHEREAS, 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

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 August 1, 2013, McFarland Livestock Co. submitted the attached Temporary Change Application TC-74-16 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 the changed portion of right 74-1556 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 as a 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 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.**

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5. Right 74-1556 is limited to the irrigation of a total of 166.4 acres in a single irrigation season. 122 acres may be irrigated at the proposed place of use. 44.4 acres may continue to be irrigated at the original place of use. Irrigation under right 74-1556 shall cease once the annual volume limit for the water right is reached.
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 applicant is also subject to all conditions and limitations listed on the application under the section titled "ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES".
10. The Watermaster of Water District No. 74 is authorized to administer the temporary change approval.
11. This Temporary change approval expires on November 15, 2013 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 2nd day of August, 2013.



Lyle Swank
Eastern Regional Manager

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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 McFarland Livestock Co. Inc. Phone 208-768-2711
Mailing Address PO Box 50, Lemhi, ID 83465 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. _____
Because of the drought, the underlying water right on the property, 74-1562, was curtailed very early in the irrigation season. The fields are planted in alfalfa. This transfer is needed to protect the alfalfa crops on the property.

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

1. <u>Right Number</u>	<u>Priority</u>	<u>Amount</u> (cfs/ac-ft)	<u>Nature of Use</u>	<u>Period of Use</u>
<u>74-1556</u>	<u>3/21/1889</u>	<u>5.00 cfs</u>	<u>Irrigation</u>	<u>4/15</u> to <u>10/15</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 3.00 cfs cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Lemhi River tributary to Salmon River
4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag number
17N	24E	24			NW	NW	Lemhi	Lemhi River	Headgate L-46A

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	
17N	24E	14							1.0		3.9	36.5	29.1	30.0			14.0		114.5
17N	24E	15													7.5				7.5

Total Acres 122

6. General Information:

- a. Who owns the water right to be changed? McFarland Livestock
- 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:
We will dry up 122 acres at the place of use designated for water right 74-1556.
- d. Has the water right sought to be transferred been used this year? ☒ Yes ☐ No If yes, explain. See below.
- e. Absent the changes, how would the right be used for the remainder of the year? 122 acres used at the proposed place of use. 44.4 acres will still be used at the POU for 74-1556.
- f. Describe other water rights used for the same purpose. 74-1562 has already been curtailed
- g. Remarks: Point of diversion will not change. Same amount of water will be diverted from the Lemhi River at headgate L-46A.

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.

[Signature]
Signature of Applicant

8-1-13
Date

FOR DEPARTMENT USE ONLY

Received by JRC Date 8/1/2013 \$50 fee receipted by [Signature] Receipt No. EO38964
Recommend: ☒ approve ☐ deny Watermaster recommendation Watermaster is not opposed to temporary change per 8/1/13 telephone conference JRC

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

8/1/2013

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	MC FARLAND LIVESTOCK CO INC C/O TEX J KAUER PO BOX 50 LEMHI, ID 83465 (208)768-2711

Status: Active

Tributary
SALMON RIVER

Volume

4.060 CFS

Sec. 24, Twp 17N, Rge 24E, LEMHI County

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
17N	24E	14							1.0		3.9	36.5	29.1	30.0			14.0		114.5
17N	24E	15													7.5				7.5

POU Total Acres: 122.0

1.	E64	This right authorizes the irrigation of 121.5 total acres.
2.	X35	Rights 74-1556 and 74-1562 when combined shall not exceed the irrigation of 284.9 acres.
3.		The diversion and use of water as authorized in Transfer 76341 is subject to the water right holder's offer to withdraw Snake River Basin Adjudication claim 74-15583. Failure of the right holder to withdraw claim 74-15583 prior to diverting water pursuant to this transfer approval is cause for the Director to rescind approval of the transfer.
4.		Diversion of Lemhi River at L-46A is limited to those times water is available for diversion under this right and priority from the original point of diversion L-52, in T17N, R25E, section 33 NESW.
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. 74.

IDAHO DEPARTMENT OF WATER RESOURCES

8/1/2013

Proof Report

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. T07 The right holder shall accomplish the change authorized by this transfer within one year(s) of the date of this approval.
8. 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.
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. 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.
11. U42 Place of use does not include federal public lands
12. F01 Water is delivered through L-46A.
13. 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.
14. 004 This right does not grant any right-of-way or easement across the land of another.

8/1/2013

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	MC FARLAND LIVESTOCK CO INC C/O TEX J KAUER PO BOX 50 LEMHI, ID 83465 (208)768-2711

Status: Active

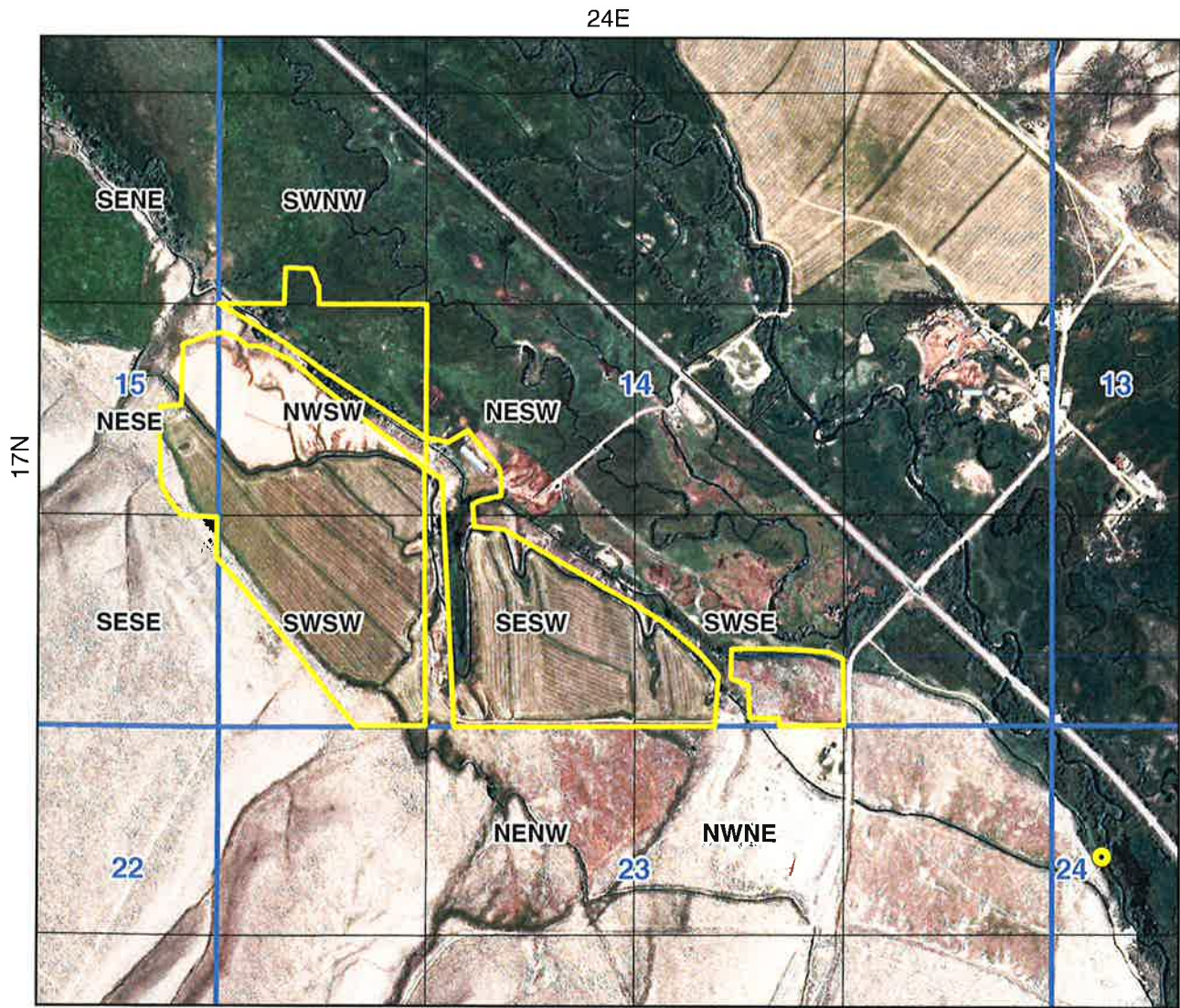
<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/15	10/15	5.000 CFS	582.4 AF
	<u>Total Diversion</u>		5.000 CFS	582.4 AF

LEMHI RIVER NWNW Sec. 24, Twp 17N, Rge 24E, LEMHI County

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
17N	24E	14					7.8	14.6	34.0	36.8	31.5				5.5	17.7	18.5		166.4

1.	T04	Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
2.	T09	Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
3.	R25	This right when combined with all other rights shall provide no more than 3.5 afa per acre for irrigation of the lands above.
4.	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.
5.		1.67 cfs of Right No. 74-01556 is a portion of the right which is used for conveyance losses.
6.	R04	Use of water under this water right will be regulated by the watermaster of State Water District No. &DISTRICT.
7.	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.
8.	T07	The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

State of Idaho
Department of Water Resources
McFarland Temporary Transfer
August 01, 2013



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters

