

2005

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TEMPORARY CHANGE OF A)
WATER RIGHT 74 - 1554 & 74-1556 Part)
_____)
_____)

ORDER AUTHORIZING
TEMPORARY CHANGE

TC-74-11

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 purpose 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 July 27, 2005, McFarland Livestock & Tex Kaur submitted the attached Temporary Change Application TC-74- 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 no(s). 74 - 1554 & 74-1556 Part 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 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 that 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.

ORDER AUTHORIZING
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5. Right(s) 74-1654 & 74-1556 Part are limited to the irrigation of a total of 132 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 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 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 applicant is subject to all conditions and limitations listed on the application under the section titled "ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES"
10. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
11. The Water master of Water District No. 74 is authorized to administer the temporary change approval.
12. This Temporary change approval expires on October 31, 2005 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, 2005.


Ronald D. Carlson
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)

Name of Applicant McFarland Livestock Co. INC
C/O Blair or Tex Kauer Phone (208) 768-2711
Post Office Address P.O. Box 50, Lemhi, Id 83465

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 the reason(s) thereof Drought emergency move earlier
priority to cover any loss suffered on place of use for flood irrigation and
data losses
Changing P/D from L-46A TO L-52; L-48 water right 74-1556
Changing P/D from L-45C TO L-48 forewater right 74-1554

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
PART	74-1556	3/21/1889	1.30 cfs	IRRIGATION	4/15 to 10/15
	74-1554	5/27/1890	0.95 cfs	IRRIGATION	3/15 to 11/15
					to
					to

2. Total amount of water being transferred 2.25 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:

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
			NE	NE	25	17N	24E	Lemhi	Div L-48

5. Lands irrigated or place of use: Limited to 43.4 ac (74-1556) and 32 ac (74-1554) = 75.4 ac ^{Total of}

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	24E	14	5	29	19	37	3								31	8			132

Total Acres 132

6. General Information:

TC-74-11

- a. Who owns the water right to be changed? APPLICANTS
- b. Describe the arrangement allowing use of the right APPLICANTS FILED TEMPORARY CHANGE
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
will not be irrigated
- d. Has the water right sought to be transferred been used this year? Yes If yes, explain. used to irrigate original place of use
- e. Absent the changes, how would the right be used for the remainder of the year? Will continue to be used if temp change is not approved
- f. Describe other water rights used for the same purpose.
74-1544, 74-1556 (PART) 74-1565
- g. Remarks: 74-1556 (P/D L-46A) split by two Temp. Change Applications Water to be diverted from L-52 (3.70cfs/123ac) and L-48 (1.30cfs/43.4ac)

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.

Lex J. Kauer
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KCW Date 7/27/05 Fee 50.00

Receipted KCW # E031097 Recommend: ☒ approve ☐ deny

Watermaster recommendation Recommended

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. TC-74-10

And said application is hereby APPROVED, subject to the following limitations and conditions:

Witness my hand this 2nd day of August, 2005.

[Signature]
For the Director

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 74-1565

WATER RIGHT NUMBER: 74-1565

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

Priority Date: 11/22/1887

Basis: Decreed

Status: Active

Source Tributary
 LEMHI RIVER SALMON RIVER

Beneficial Use From To Diversion Rate Annual Volume
 IRRIGATION 3/15 to 11/15 3.970 CFS

Total Diversion: 3.970 CFSLocation of Point(s) of Diversion

LEMHI RIVER NE1/4NE1/4 Sec. 25,Twp 17N,Rge 24E, B.M. LEMHI County

Place of Use IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N 24E 14	5.0	29.0	19.0	37.0	3.0								31.0	8.0			132.0

Total Acres: 132

Conditions of Approval:Remarks:

- General AC. IRR.=132.2.
 DIV. L-48.

Comments:Dates and Other Information:

Licensed Date:
 Decreed Date: 12/30/1982
 Water Supply Bank Enrollment Accepted:
 Water Supply Bank Enrollment Removed:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 State or Federal:
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Decree Defendant: Mary Adams, et al
 Decree Plaintiff: State of Idaho
 Civil Case Number: 4948
 Judicial District: Seventh District
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 74-1554

WATER RIGHT NUMBER: 74-1554

<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

Priority Date: 05/27/1890

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
LEMHI RIVER	SALMON RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15	11/15	0.950 CFS	
	<u>Total Diversion:</u>		0.950 CFS	

<u>Location of Point(s) of Diversion</u>	
LEMHI RIVER SW1/4NE1/4	Sec. 14, Twp 17N, Rge 24E, B.M. LEMHI County

Place of Use IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N 24E 14		2.0	3.0		26.0	1.0											32.0

Total Acres: 32

Conditions of Approval:Remarks:

- General AC. IRR.=31.6.
DIV. L-45C.

Comments:Dates and Other Information:

Licensed Date:
 Decreed Date: 12/30/1982
 Water Supply Bank Enrollment Accepted:
 Water Supply Bank Enrollment Removed:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 State or Federal:
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Decree Defendant: Mary Adams, et al
 Decree Plaintiff: State of Idaho
 Civil Case Number: 4948
 Judicial District: Seventh District
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 74-1556

WATER RIGHT NUMBER: 74-1556

SPLIT BY TEMPORARY CHANGE

Owner Type

Current Owner

Name and Address

MC FARLAND LIVESTOCK CO INC
C/O TEX J KAUER
PO BOX 50
LEMHI, ID 83465
(208)768-2711

123ac/166.4a (5.0cfs) = 3.70cfs
P/D L-52
P/u 123ac under 74-1562
5.00cfs/166.4a
43.4ac/166.4a (5.0cfs) = 1.30cfs
P/D L-48 P/u under 74-1565
Status: Active

Priority Date: 03/21/1889

Basis: Decreed

Source

LEMHI RIVER

Tributary

SALMON RIVER

Beneficial Use

IRRIGATION

From To

4/15 to 10/15

Diversion Rate

5.000 CFS

Annual Volume

582.40 AF

Total Diversion:

5.000 CFS

582.40 AF

Location of Point(s) of Diversion

L-46A

LEMHI RIVER

NW1/4NW1/4

Sec. 24, Twp 17N, Rge 24E, B.M.

LEMHI County

Place of Use

IRRIGATION

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

Total Acres: 166.4

Conditions of Approval:

1. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. & DISTRICT.
2. 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.
3. 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.
4. 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.
5. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
6. 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.
7. 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.

Remarks:

1. General 1.67 cfs of Right No. 74-01556 is a portion of the right which is used for conveyance losses.

Comments:

1. PSKAGGS 9/20/1996 TRANSFER NO. 4800

Comment: Transfer No. 4800 was filed to change the point of diversion under Right No. 74-01556.

Dates and Other Information:

Licensed Date:

Decreed Date: 12/30/1982

Water Supply Bank Enrollment Accepted:

Water Supply Bank Enrollment Removed:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal:

Owner Name Connector:

Water District Number: 74

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Decree Defendant: Mary Adams, et al

Decree Plaintiff: State of Idaho

Civil Case Number: 4948

Judicial District: Seventh District

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATERMASTER

Application No: _____

Applicant's Name: McFarland Overstock

Watermaster's Recommendation:

- a) X 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 3 day of Aug, 2005.

Water District No: 24

Reik Seger
 Watermaster's Signature

Use reverse side of page if you need more space.

