

BEFORE THE DEPARTMENT OF WATER
OF THE STATE OF IDAHO

2003

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT 74-27; 74-28; 74-25)
McFarland Livestock Co % Tex Kauer)

ORDER AUTHORIZING
TEMPORARY CHANGE TC-74-01

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 counties; 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 when the director determines that such
changes can be accomplished in accordance with the provisions of section 42-222A,
Idaho Code; and

WHEREAS, on 7/29/03, McFarland Livestock Co Inc.
% Tex Kauer submitted the attached
Temporary Change Application TC-74-01 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). 74-27; 74-28 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

**ORDER AUTHORIZING
TEMPORARY CHANGE** TC-74-01

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(s) 74-27 & 74-28 ^{(74-25) Kew 8/4/03} are limited to the irrigation of a total of 191 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 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 applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
10. The watermaster of Water District No. 74W is authorized to administer the temporary change approval.
11. This temporary change approval expires on 11/15/03 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 30th day of July, 2003


RONALD D. CARLSON
EASTERN REGION 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.
% Blair Kauer or Tex J Kauer Phone 208 768 2718
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 need to
move earlier priority to irrigate lands with later priority

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>74-27</u>	<u>4-1-1879</u>	<u>0.70 cfs</u>	<u>IRRIGATION</u>	<u>3/15</u> to <u>11/15</u>
<u>74-28</u>	<u>8-15-1883</u>	<u>3.30 cfs</u>	<u>"</u>	<u>3/15</u> to <u>11/15</u>
<u>74-25</u>	<u>4-01-1939</u>	<u>2.50 cfs</u>	<u>IRRIGATION</u>	<u>3/15</u> to <u>11/15</u>

2. Total amount of water being transferred 4.00 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Hawley Creek tributary to Eighteenmile Creek

4. Point(s) of Diversion:

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
			SW	NE	2	15N	27E	Lemhi	

5. Lands irrigated or place of use:

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	
15N	27E	14				4				14	40	40	30	40		14	9		191

Total Acres 191

6. General Information:

- a. Who owns the water right to be changed? APPLICANTS
- b. Describe the arrangement allowing use of the right OWNER OF WATER RIGHTS FILED APPLICATION
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
WILL DRY UP LAND UNDER WATER RIGHTS
- d. Has the water right sought to be transferred been used this year? YES If yes, explain. USED ON LANDS UNDER WATER RIGHTS
- e. Absent the changes, how would the right be used for the remainder of the year? Will continue to be used as long as priority holds
- f. Describe other water rights used for the same purpose.
74-11, 74-12, 74-16, 74-29, 74-30, 74-332, 74-333 74-25 ^{Kew 8/4/03}
- 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.

Ken J. Kew
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by Kew Date 7/29/03 Fee 50⁰⁰

Received Kew # 5029047 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. TC-74-01

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

Witness my hand this 30th day of July, 2003:

Randy L. Smith
For the Director

Adjudication Recommendation Report 74-27 V1

TC-74-01

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 74-28 V1

TC-74-01

WATER RIGHT NUMBER: 74-28 V1

<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: 08/15/1883

Basis: Decreed

Status: Active

SourceTributary

HAWLEY CREEK

EIGHTEENMILE CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	3.300 CFS	

Total Diversion: 3.300 CFSLocation of Point(s) of Diversion

HAWLEY CREEK	SE1/4NE1/4	Sec. 3, Twp 15N, Rge 27E, B.M.	LEMHI County
--------------	------------	--------------------------------	--------------

<u>Place of Use</u> Twp Rge Sec		IRRIGATION				NW				SW				SE				Totals
		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N 27E 30													20.0			30.0	34.0	84.0
16N 27E 31		39.0	32.0			21.0	2.0											94.0
							L 1											

Total Acres: 178

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:

1. Place of Use USE OF THIS RIGHT WITH RIGHT NOS. 74-25 AND 74-27 IS LIMITED TO THE IRRIGATION
- Irrigation OF A COMBINED TOTAL OF 225.2 ACRES IN A SINGLE IRRIGATION SEASON.
2. Place of Use This right authorizes the irrigation of 178.1 total acres.
- Irrigation

Comments:Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

TC-74-01

State of Idaho
Department of Water Resources
Transfer of Water Rights

RECOMMENDATION OF WATERMASTER

Transfer Application No: _____

Water Right No(s):

74-28
74-27-~~28~~

Transfer Applicant's Name:
Watermaster's Recommendation:

a) ☒ 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: In reviewing this transfer I see no reason to object to this as it appears to have the parties involved best interest addressed.Dated this 29 day of 7, 03

Water District No: 34


Watermaster's Signature

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 74-25 V1

WATER RIGHT NUMBER: 74-25 V1

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

Priority Date: 04/01/1939

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
HAWLEY CREEK	EIGHTEENMILE CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15	to 11/15	2.500 CFS	

Total Diversion: 2.500 CFSLocation of Point(s) of Diversion

HAWLEY CREEK	SE1/4NE1/4	Sec. 3,Twp 15N,Rge 27E, 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	
16N 27E 30												20.0			30.0	34.0	84.0
16N 27E 31	39.0	32.0			21.0	2.0											94.0
						L 1											
16N 27E 32						34.0											34.0

Total Acres: 212

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:

1. Place of Use USE OF THIS RIGHT WITH RIGHT NOS. 74-27 AND 74-28 IS LIMITED TO THE IRRIGATION - Irrigation OF A COMBINED TOTAL OF 225.2 ACRES IN A SINGLE IRRIGATION SEASON.
2. Place of Use This right authorizes the irrigation of 211.6 total acres. - Irrigation

Comments:Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Mitigation Plan: False

Judicial District:

Notice of Error Flag:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 4, 2003

McFarland Livestock Co. Inc.
C/O Tex J. Kauer
P.O. Box 50
Lemhi, ID 83465

RE: Temporary Change TC-74-01 for Water rights 74-27, 74-28, & 74-25

Dear Mr. Kauer:

A review of the temporary change TC-74-01 revealed that water right 74-25 was omitted on the application. The temporary change process should have identified all water rights on the place of use from which the water was to be removed.

This letter is to inform you that lands listed under water rights 74-25, 74-27, or 74-28, cannot be irrigated for the remainder of the 2003 irrigation season. The places of use for all three water rights are temporarily assigned to the pivot in the SW ¼ of Sec 14, T15N, R27E, as described in Item B.5 (Lands irrigated or place of use) on Temporary Change TC-74-01.

Sincerely,

Keith C. Wilson
Senior Resource Agent