

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

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT 34-611B + 34-612B)
_____)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-34-89

2008

WHEREAS, a drought emergency has been declared for Custer 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 7, 2008, MOUNTAIN SPRINGS RANCH submitted the attached Temporary Change Application TC-34-89 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:

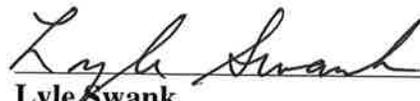
1. Diversion and use of right no(s). 34-611B + 34-612B is authorized only at the point of diversion and place of use described on the application.
2. This temporary Change approval does not authorize construction of a new well as a point of diversion.
3. The applicant assumes all risk of curtailment 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.

ORDER AUTHORIZING
TEMPORARY CHANGE

TC-34-89

5. Right(s) 34-611B + 34-612B are limited to the irrigation of a total of 64.5 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 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 Watermaster of Water District No. 34 is authorized to administer the temporary change approval.
12. This Temporary change approval expires on OCTOBER 31, 2008 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 13TH day of AUGUST, 2008.



Lyle Swank
Eastern Regional Manager

Ident. No. TC-34-89

7/82

STATE OF IDAHO
 DEPARTMENT OF WATER RESOURCES
TEMPORARY CHANGE APPLICATION
 (To change point of diversion, place of use or purpose of use)

589-3110 Cell

Name of applicant Mountain Springs Ranch, LLC Phone 588-3110
 Post Office address 5550 Barton Flat Road Mackay, ID 83251

A. PURPOSE OF TRANSFER

1. Change point of diversion Add diversion point(s)
 Change purpose of use Other Change place of use

2. Describe the proposed change(s) and the reason(s) therefor Put water on alfalfa

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

1. Right Number	Priority	Amount	Nature	Period of Use
<u>34-00611B</u>	<u>6/1/1882</u>	<u>1.29</u>	<u>Irrigation</u>	<u>5-1</u> to <u>10-15</u>
<u>34-00612B</u>	<u>6/1/1886</u>	<u>.8</u>	<u>Irrigation</u>	<u>5-1</u> to <u>10-15</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 2.09 cubic feet/second and/or _____ acre-feet per annum.

3. Source of water: Big Lost River tributary to Sinks

4. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
<u>611B</u>		<u>SE</u>	<u>SE</u>		<u>3</u>	<u>8N</u>	<u>22E</u>	<u>Custer</u>	<u>Parsons Creek</u>
<u>612B</u>		<u>SE</u>	<u>NW</u>		<u>11</u>	<u>8N</u>	<u>22E</u>	<u>"</u>	<u>Parsons Creek</u>
<u>"</u>		<u>NW</u>	<u>NE</u>	<u>SE</u>	<u>11</u>	<u>8N</u>	<u>22E</u>	<u>"</u>	<u>Big Lost River</u>
<u>"</u>		<u>NW</u>	<u>NE</u>		<u>14</u>	<u>8N</u>	<u>22E</u>	<u>"</u>	<u>Parsons Creek</u>

5. Lands irrigated or Place(s) 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		
<u>8N</u>	<u>22E</u>	<u>14</u>			<u>16</u>			<u>35</u>									<u>7</u>			<u>64.5</u>

RECEIVED Total acres 64.5

AUG 07 2008

6. General Information:

a. Who owns the water right to be changed? Mountain Springs Ranch, LLC

b. Describe the arrangement allowing use of the right _____

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this application:

Will dry up 64.5 acres
conjunction with other rights, the River is dry so we need to
change POD

d. Has the water right sought to be transferred been used this year? yes If yes, explain. used in

e. Absent the changes, how would the right be used for the remainder of the year? for a pivot

f. Describe other water rights used for the same purpose.

g. Remarks: same as transfer 34-38, TC34-67, TC-34-84

Transfer amounts to more than the acreage to allow shrink.

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.

X Shane Rosenkrance
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by MWA Date 8/7/08 Fee \$50
Recepted MWA # E034328 Recommend: approve deny
Watermaster recommendation APPROVE

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. TC-34-89
And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 199__.

ATTN MICHAEL HOLIDAY

12/99

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATERMASTER

Application No: TC-34-89

Applicant's Name: MOUNTAIN SPRINGS RANCH, LLC

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: _____

Dated this 12TH day of AUGUST, 2008.

Water District No: 34

Robert W. Shaffer
Watermaster's Signature

Use reverse side of page if you need more space.