

2005

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TEMPORARY CHANGE OF A)
WATER RIGHT 34 - 452E)
_____))
_____)

ORDER AUTHORIZING
TEMPORARY CHANGE

TC-34-64

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 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 April 4, 2005, DON LORD submitted the attached Temporary Change Application TC-34-64 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 - 452E 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
TEMPORARY CHANGE

TC-34-64

5. Right(s) 34-452E are limited to the irrigation of a total of 145 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. 34 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 6th day of April, 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 Don Lord Phone 588-3035

Post Office Address 4266 N 4100 W Mackay, ID 83251

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 Changing Place of use and point of diversion to facilitate delivery of water.

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
<u>34-00452E</u>	<u>6-1-1885</u>	<u>1.26</u>	<u>Irrigation</u>	<u>05-01</u> to <u>10-15</u>
				to
				to
				to

2. Total amount of water being transferred 1.26 cubic feet per second and/or 2.49 acre-feet per annum.

3. Source of water Surface BIG LOST RIVER tributary to Big Lost River

4. Point(s) of Diversion: SINKS

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
		SE	NW	NW	34	7N	24E	Custer	Harris Vaught Ditch

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	
7N	25E	32			40	40			35	40		38	38	39					

Total Acres 270

State of Idaho
Department of Water Resources
Transfer of Water Rights

RECOMMENDATION OF WATERMASTER

Transfer Application No: Water Right No(s): 34-00452E

Transfer Applicant's Name: Max Bingham / Don Lord
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 30th, day of March, 2005

Water District No: 34


Watermaster's Signature

3-30-05

DUE TO THE DROUGHT I MAX J. BINGHAM
HEREBY TRANSFER MY 6-1-1885 WATER RIGHTS
TO DON LORD FOR THE IRRIGATION SEASON
2005 ONLY

Max J Bingham

IDAHO DEPARTMENT OF WATER RESOURCES

04/04/2005

Water Right Report 34-708B

WATER RIGHT NUMBER: 34-708B

Owner Type

Current Owner

Name and Address

DONALD R or JUDY LORD
4266 N 4100 W
MACKAY, ID 83251
(208)588-3036

INFO ONLY

New

POU

Priority Date: 03/10/1894

Basis: Decreed

Status: Active

Source

BIG LOST RIVER

Tributary

SINKS

Beneficial Use

IRRIGATION

From To

5/01 to 10/15

Diversion Rate

2.800 CFS

Annual VolumeTotal Diversion: 2.800 CFSLocation of Point(s) of Diversion

BIG LOST RIVER SE1/4NW1/4NW1/4 Sec. 34,Twp 07N,Rge 24E, B.M. CUSTER 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	
07N 25E 32			40.0	40.0			35.0	40.0			38.0	38.0	39.0				270.0

Total Acres: 270

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.
2. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

Remarks:

1. Place of Use USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A - Irrigation COMBINED TOTAL OF 270 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-00709B, 34-02281A AND 34-02361A. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 140 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
2. Explanatory WATER IS DELIVERED THROUGH HARRIS VAUGHT DITCH.
3. Quantity USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 7.03 CFS. COMBINED RIGHT NOS.: 34-00709B, 34-02281A AND 34-02361A.

Dates and Other Information:

Decreed Date: 12/14/2001
State or Federal: S
Owner Name Connector: OR
Water District Number: 34
Civil Case Number: 39576
Judicial District: FIFTH

Combined Use Limits:

Rate	Volume	Acres
7.03		270

Combined Water Rights: 34-2281A , 34-2361A , 34-709B , 34-708B

Rate	Volume	Acres
7.03		270

Combined Water Rights: 34-2281A , 34-2361A , 34-709B , 34-708B

INFO ONLY

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 34-452E

WATER RIGHT NUMBER: 34-452E

Owner Type Name and Address
 Current Owner MAX J & CHERYL J BINGHAM
 520 VISTA DR
 CLINTON, TN 37716

Priority Date: 06/01/1885 Basis: Decreed Status: Active

Source Tributary
 BIG LOST RIVER SINKS

Beneficial Use From To Diversion Rate Annual Volume
 IRRIGATION 5/01 to 10/15 1.260 CFS

Total Diversion: 1.260 CFS

Location of Point(s) of Diversion

BIG LOST RIVER NW1/4NW1/4NE1/4 Sec. 24,Twp 06N,Rge 25E, B.M. CUSTER 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	
06N	26E	19												38.0			36.0	39.0	113.0
06N	26E	30	33.0																33.0

Total Acres: 146

Conditions of Approval:

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. 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.
3. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

Remarks:

1. Place of Use - Irrigation USE OF THIS RIGHT WITH RIGHT NOS. 34-00282C, 34-02438 AND 34-10795 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 146 ACRES IN A SINGLE IRRIGATION SEASON.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 63 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
2. Explanatory WATER IS DELIVERED THROUGH LOWER BURNETT DITCH.
3. Quantity USE OF THIS RIGHT WITH RIGHT NOS. 34-00282C, 34-02438 AND 34-10795 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.66 CFS.

Dates and Other Information:

Decreed Date: 12/14/2001
 State or Federal: S
 Owner Name Connector: AND
 Civil Case Number: 39576
 Judicial District: FIFTH

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
3.66		146

Combined Water Rights: 34-10795 , 34-2438 , 34-452E , 34-282C

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 34-282C

WATER RIGHT NUMBER: 34-282C

Owner Type Name and Address
 Current Owner MAX J & CHERYL J BINGHAM
 3861 N HWY 93
 LESLIE, ID 83255
 (208)588-2080

Priority Date: 06/01/1897

Basis: Decreed

Status: Active

Source Tributary
 BIG LOST RIVER SINKS

Beneficial Use From To Diversion Rate Annual Volume
 IRRIGATION 5/01 to 10/15 1.200 CFS

Total Diversion: 1.200 CFSLocation of Point(s) of Diversion

BIG LOST RIVER NW1/4NW1/4NE1/4 Sec. 24,Twp 06N,Rge 25E, B.M. CUSTER 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	
06N	26E	19											38.0				36.0	39.0	113.0
06N	26E	30	33.0																33.0

Total Acres: 146

Conditions of Approval:

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. 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.
3. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

Remarks:

1. Quantity USE OF THIS RIGHT WITH RIGHT NOS. 34-00452E, 34-02438 AND 34-10795 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.66 CFS.
2. Place of Use - Irrigation USE OF THIS RIGHT WITH RIGHT NOS. 34-00452E, 34-02438 AND 34-10795 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 146 ACRES IN A SINGLE IRRIGATION SEASON.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
3. Explanatory WATER IS DELIVERED THROUGH LOWER BURNETT DITCH.

Dates and Other Information:

Decreed Date: 12/14/2001
 State or Federal: S
 Owner Name Connector: AND
 Civil Case Number: 39576
 Judicial District: FIFTH

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
3.66		146

Combined Water Rights: 34-10795 , 34-2438 , 34-452E , 34-282C

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 34-2438

WATER RIGHT NUMBER: 34-2438

Owner Type Name and Address
 Current Owner MAX J & CHERYL J BINGHAM
 520 VISTA DR
 CLINTON, TN 37716

Priority Date: 09/13/1961

Basis: Decreed

Status: Active

Source Tributary

GROUND WATER

Beneficial Use From To Diversion Rate Annual Volume
 IRRIGATION 4/01 to 11/01 2.520 CFS

Total Diversion: 2.520 CFSLocation of Point(s) of Diversion

GROUND WATER NW1/4SE1/4SW1/4 Sec. 19,Twp 06N,Rge 26E, B.M. CUSTER 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	
06N	26E	19												38.0			36.0	39.0	113.0
06N	26E	30	33.0																33.0

Total Acres: 146

Conditions of Approval:

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. 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. Explanatory RIGHT NO. 34-10795 IS AN ENLARGEMENT OF THIS RIGHT PURSUANT TO SECTION 42-1426, IDAHO CODE.
2. Place of Use
- Irrigation USE OF THIS RIGHT WITH RIGHT NOS. 34-00282C, 34-00452E AND 34-10795 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 146 ACRES IN A SINGLE IRRIGATION SEASON.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 126 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
3. Quantity USE OF THIS RIGHT WITH RIGHT NO. 34-10795 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 2.52 CFS AND A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 511 AF.
USE OF THIS RIGHT WITH RIGHT NOS. 34-00282C, 34-00452E AND 34-10795 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.66 CFS

Dates and Other Information:

Decreed Date: 12/14/2001
 State or Federal: S
 Owner Name Connector: AND
 Civil Case Number: 39576
 Judicial District: FIFTH

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
2.52	511	

Combined Water Rights: 34-10795 , 34-2438

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
3.66		146

Combined Water Rights: 34-10795 , 34-2438 , 34-452E , 34-282C

