

2004

Form 42-222A
12/99

Ident. No. TC-34-56

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 Mickelsen Properties LLC % Mark Mickelsen ²⁰⁸ Phone 313-1295 (cell)
Post Office Address PO Box 438 Rigby, Id 83442

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change purpose of use ☒ Other FOR IRRIGATION & Mitigation

2. Describe the proposed change(s) and the reason(s) thereof Mitigation for groundwater pumping to satisfy Petition for Delivery Call received from "Jensens"

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>34-7179</u>	<u>4/6/1982</u>	<u>2.78 cfs</u>	<u>IRRIGATION & Mitigation</u>	<u>4/1</u> to <u>11/1</u>

2. Total amount of water being transferred 2.78 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water GROUNDWATER tributary to _____

4. Point(s) of Diversion:

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
	2	NE	NW	NE	4	4N	26E	Butte	Mickelsen Well

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	
4N	26E	4													39	39	38	36	152
		9		27	29										37	10	10	29.5	142.5

Total Acres 294.5

TC-34-56

6. General Information:

- a. Who owns the water right to be changed? Applicant
- b. Describe the arrangement allowing use of the right Agreement to provide mitigation water
- 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? NO If yes, explain. _____
- e. Absent the changes, how would the right be used for the remainder of the year? Could not be used because of petition for Delivery Call without other mitigation
- f. Describe other water rights used for the same purpose. _____
- g. Remarks: 34-2330B, 34-7121B, 34-12376, 34-618, 34-692C, 34-7077, 34-7080B, 34-7120, 34-7121A, 34-7092, 34-13659, 34-13661, 34-13663, 34-621E, 34-621D

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)

FOR DEPARTMENT USE ONLY

Received by KCW Date 7/27/04 Fee \$50.00
 Receipted 7/27/04 # E030078 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-34-56

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

Witness my hand this 30th day of July, 2004.

[Signature]
For the Director

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

IN THE MATTER OF APPLICATION FOR)
TEMPORARY CHANGE OF A)
WATER RIGHT 34-7179)
)
Mickelsen Properties)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-34-56

WHEREAS, a drought emergency has been declared for Butte 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, 2004, Mark Mickelsen for Mickelsen Properties submitted the attached Temporary Change Application TC-34-56 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). 34-7179 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-34-56

5. Right(s) 34-7179 are limited to the irrigation of a total of 294.5 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 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 Water master of Water District No. 34 is authorized to administer the temporary change approval.
11. This Temporary change approval expires on October 31, 2004 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, 2009.


Ronald D. Carlson
Eastern Regional Manager

State of Idaho
Department of Water Resources
Transfer of Water Rights

RECOMMENDATION OF WATERMASTER

Transfer Application No: TC-34-56

Water Right No(s): 34-7179

Transfer Applicant's Name: Mickelsen Properties, LLC / Mark Mickelsen
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 July, 2004

Water District No: 34


Watermaster's Signature

07/22/2004

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 34-7179

INFO

TC-34-56

WATER RIGHT NUMBER: 34-7179

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	EVERETT T ACOR JR
Current Owner	MICKELSEN PROPERTIES LLC 1050 WEST RIVERVIEW DRIVE IDAHO FALLS, ID 83401 (208)524-1295

Priority Date: 04/06/1982

Basis: Decreed

Status: Active

SourceTributary

GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01	to 11/01	2.780 CFS	

Total Diversion: 2.780 CFSLocation of Point(s) of Diversion

GROUND WATER L2 (NE1/4NW1/4NE1/4)Sec. 4,Twp 04N,Rge 26E, B.M. BUTTE 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	
03N	25E	12	39.0	40.0	40.0	39.0	40.0	40.0	40.0	40.0	31.0	32.0	31.0	32.0	39.0	40.0	36.0	36.0	595.0
03N	26E	17	11.0	25.0			37.0	39.0	13.0	5.0									130.0
03N	26E	18	35.0	39.0	36.0	25.0	38.0	26.0	37.0	40.0	17.0	10.0			2.0				305.0
04N	25E	35	40.0	40.0	40.0	40.0				20.0			20.0	40.0	40.0	40.0	40.0		360.0
04N	25E	36	38.0	40.0	40.0	39.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	39.0	40.0	40.0	39.0		635.0
04N	26E	4	35.0	36.0	36.0	32.0													139.0
			L 1	L 2															
05N	26E	33	14.0	36.0															50.0

Total Acres: 2214

Conditions of Approval:

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. C06 PRIORITY DATE CHANGED TO PREVENT INJURY FROM CHANGE IN USE.
3. 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. Quantity USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 8087.5 AF IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 34-12376, 34-13659, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-02330B, 34-07077, AND 34-07120.
2. Place of Use - Irrigation USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2307 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-12376, 34-13663, 34-07080B, 34-07121A, 34-07121B, 34-07092, 34-02330B, 34-07077, 34-07120, 34-00618, 34-00692C, 34-13659 AND 34-13661.
3. Explanatory RIGHT NO. 34-07201 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
WATER DELIVERED THROUGH WEST-SIDE WEST CANAL TO TIMBERDOME CANAL.

07/22/2004

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 34-7179

INFO
TC-34-56Comments:

1. BAUMHOFF 5/22/1992 ADDED D03 REMARK

Comment:

2. FRAZEE 3/3/1994 NOTICE OF APPEARANCE (NOA)

Comment: PER NOA REC'D 1/24/94, MODIFIED ENTRY FOR ATTORNEY KENT W FOSTER

3. CFRITSCH 7/23/1997 COPIED FROM REMARKS

Comment: 4.0 CFS OF RIGHT NO. 34-07077 IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT AND ALL RIGHTS PREVIOUSLY LISTED.

4. AJU10-DS 6/9/2000 AJU10 CONDITION UPDATE

Comment: CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

Dates and Other Information:

Decreed Date: 11/24/2000

State or Federal: S

Owner Name Connector: Or

Civil Case Number: 39576

Judicial District: FIFTH

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
	8087.5	

Combined Water Rights: 34-2330B , 34-7121B , 34-12376 , 34-7077 , 34-7080B , 34-7120 , 34-7121A , 34-7092 , 34-7179 , 34-13663

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
	2277	

Combined Water Rights: 34-2330B , 34-7121B , 34-12376 , 34-618 , 34-692C , 34-7077 , 34-7080B , 34-7120 , 34-7121A , 34-7092 , 34-7179 , 34-13659 , 34-13661 , 34-13663

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
	2307	

Combined Water Rights: 34-2330B , 34-7121B , 34-12376 , 34-618 , 34-692C , 34-7080B , 34-7121A , 34-7092 , 34-7179 , 34-13659 , 34-13661 , 34-13663

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
	8087.5	

Combined Water Rights: 34-2330B , 34-7121B , 34-12376 , 34-7080B , 34-7121A , 34-7092 , 34-7179 , 34-13659

SubCase:

SubCase Number: 34-7179

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date: 2/19/1999

Attorney Assigned: SARA C DENISTON

Adjudication Agent:

Basis of Claim:

Date Filed: 2/25/1993 Objection Status: Active