

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

2015

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT NOS.: 34-2401A)
and 34-4015)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-34-142

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 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 May 12, 2015, Telford Lands LLC submitted the attached temporary change application TC-34-142 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 nos. 34-2401A and 34-4015 is authorized only at the point of diversion 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-34-142

5. Rights 34-2401A and 34-4015 when combined shall not exceed a total annual maximum diversion volume of 969.5 af and the irrigation of 277 acres.
6. The amount of water diverted from the Big Lost River shall be reduced when necessary to prevent injury to appropriators of water from the Big Lost River downstream from the point of rediversion.
7. 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.
8. 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.
9. 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.
10. The Watermaster of Water District No. 34 is authorized to administer the temporary change approval.
11. This temporary change approval expires on October 31, 2015 unless rescinded or extended by the director. Thereafter, the water rights shall revert to the point of diversion, place of use, and nature of use existing prior to the temporary change approval.

DATED this 15th day of May, 2015.



Lyle Swank
Eastern Regional Manager

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

T2-34-142

TEMPORARY CHANGE APPLICATION

(To change point of diversion, place of use, or purpose of use of a water right upon declaration of a drought emergency in accordance with Section 42-222A, Idaho Code.)

Name of Applicant Telford Lands LLC Phone _____
Mailing Address 1450 W. Hwy. 24, Paul, ID 83347 Email _____

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 explain the reason(s) they are needed. The Applicant has entered into an agreement with another water right owner to utilize his well so that the Applicant can divert his water closer to the place of use. This will enable the Applicant to get more water to his place of use by reducing conveyance losses.

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

1.

<u>Right Number</u>	<u>Priority</u>	<u>Amount</u> (cfs/ac-ft)	<u>Nature of Use</u>	<u>Period of Use</u>
<u>34-2401A</u>	<u>09/01/1961</u>	<u>3.7</u>	<u>Irrigation</u>	<u>04/01</u> to <u>10/31</u>
<u>34-4015</u>	<u>09/01/1961</u>	<u>1.64</u>	<u>Irrigation</u>	<u>04/01</u> to <u>10/31</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
2. Total amount of water being transferred 5.34 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Ground water tributary to _____.
4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
05N	26E	27			SW	SW	Butte	Ground water	

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	26E	9												12	2		28	38	80
		10									32	17	40	40		30	38		197

Total Acres 277

6. General Information:

- a. Who owns the water right to be changed? Leon and Marlene Folkman
- b. Describe the arrangement allowing use of the right. The Applicant is currently leasing the property covered by the water rights. A consent to this Application signed by the Folkmans is attached.
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
There will be no change to the land now irrigated
- d. Has the water right sought to be transferred been used this year? ☐ Yes ☒ No If yes, explain. _____
- e. Absent the changes, how would the right be used for the remainder of the year? The right would be diverted from its authorized point of diversion.
- f. Describe other water rights used for the same purpose. _____
- g. Remarks: A consent form signed by Jay Jensen, the owner of the proposed point of diversion, is also attached to this application.

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

05/12/2015
Date

FOR DEPARTMENT USE ONLY

Received by SC Date 5/12/15 \$50 fee receipted by 50- Receipt No. E041019
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-34-142, and said application is hereby _____, subject to the following limitations and conditions:

Temporary Change Expiration Date _____

Signed this _____ day of _____, _____

For the Director

May 11 ^{I.U.S.}
~~April~~, 2015

To: Idaho Department of Water Resources

From: Jay Jensen

Subject: Telford Lands LLC Temporary Transfer Consent: Water Right Nos. 34-4015 and 34-2401A.

I am the owner of a well located in the SW 1/4 SW 1/4 of Sec. 27, Township 05N, Range 26E. Telford Lands LLC ("Telford") is farming property owned by Leon Folkman which is identified under the place of use of Water Right Nos. 34-4015 and 34-2401A (the "Water Rights"). Telford intends to divert the Water Rights from my well identified above through a temporary transfer. I hereby consent to Telford's use of the above well under this temporary transfer.

Jay Jensen
Printed Name: Jay Jensen

STATE OF IDAHO)
) ss.
COUNTY OF BUTTE)

On this 11 day of May, 2015, before me, a Notary Public for said County and State, personally appeared Jay Jensen, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Matthew H. Langseth
Notary Public
Residing at Arco, ID
My commission expires 1/16/2021

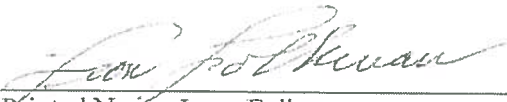
April 24, 2015

To: Idaho Department of Water Resources

From: Leon Folkman

Subject: Telford Lands LLC Temporary Transfer Consent: Water Right Nos. 34-4015 and 34-2401A.

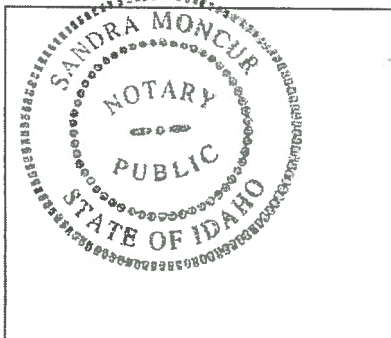
I am the owner of Water Right Nos. 34-4015 and 34-2401A (the "Water Rights"). Telford Lands LLC is farming my property identified under the place of use of the Water Rights. I hereby consent to Telford Lands LLC's temporary transfer of the Water Rights to be diverted from a well owned by Jay Jensen, which is a well closer to the property than the authorized point of diversion of the Water Rights.


Printed Name: Leon Folkman

STATE OF IDAHO)
) ss.
COUNTY OF BUTTE)

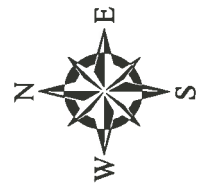
On this 24 day of April, 2015, before me, a Notary Public for said County and State, personally appeared Leon Folkman, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public
Residing at ARCO, ID 83213
My commission expires 11-01-2017

TELFORD LANDS LLC TEMPORARY CHANGE APPLICATION



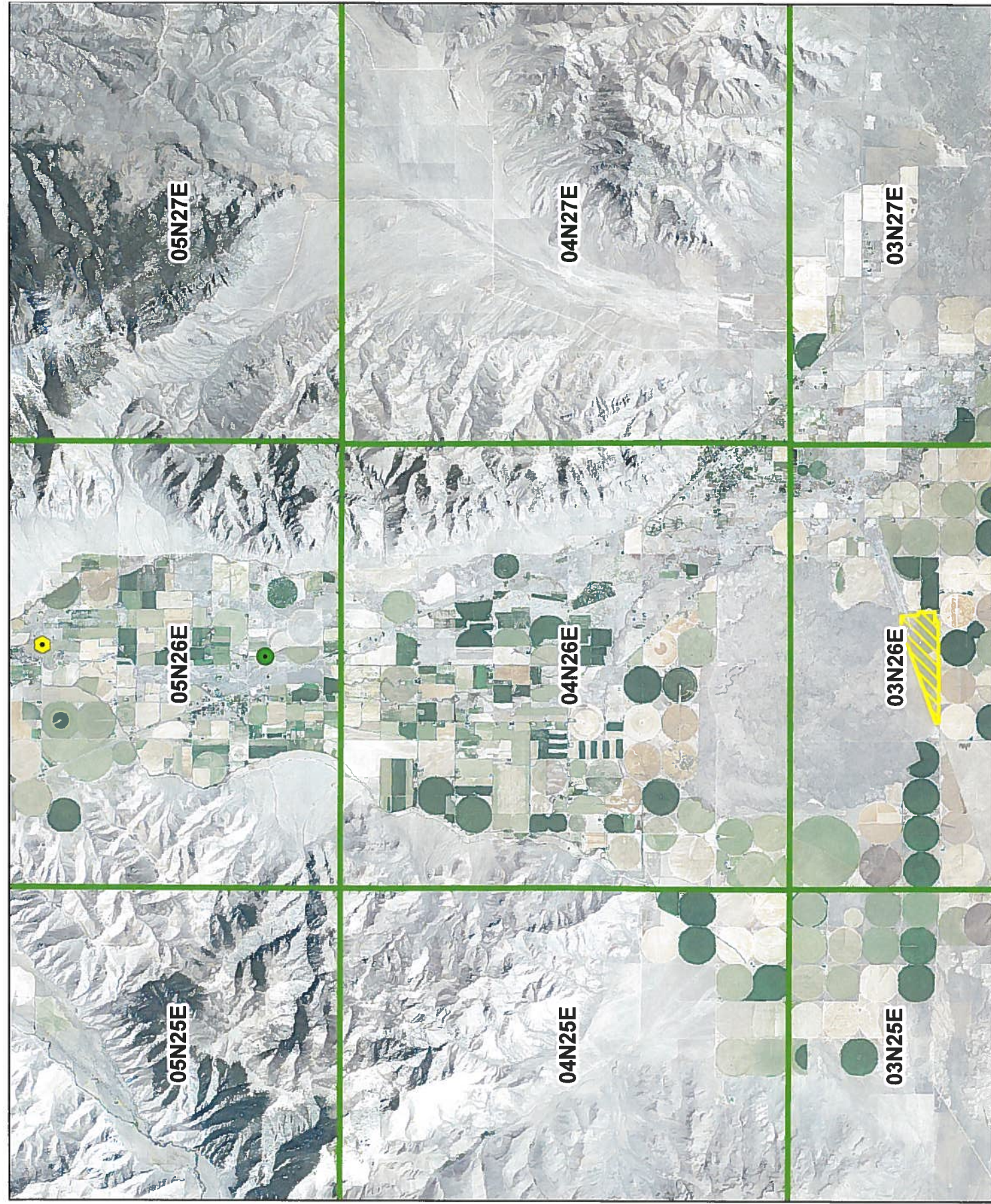
Legend

Current POD

Proposed POD

Proposed POU

TR Lines



2013 NAIP Photo



Prepared by:
Luke H. Marchant
04/23/2015



Holden Kidwell
Hahn & Crapo P.L.L.C.
LAW OFFICES

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

RECEIVED

MAY 12 2015

Department of Water Resources
Eastern Region

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com

Email: rharris@holdenlegal.com

May 12, 2015

Michael Holliday
Idaho Department of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

RE: Temporary Change Application for Water Right Nos. 34-2401A and 34-4015.

Dear Michael:

Enclosed for processing is a *Temporary Change Application* filed for Telford Lands, LLC. This application seeks to change the point of diversion for the water rights referenced above. These water rights are owned by Leon and Marlene Folkman. The applicant is currently leasing the Folkman property covered by these water rights. A consent to this application signed by the Folkman is attached.

The purpose of this transfer is to change the point of diversion for these water rights to a well that is approximately four miles closer to the place of use for the water rights. The proposed point of diversion is a well owned by Jay Jensen. We have also attached a consent to the proposed transfer signed by Jay Jensen.

Along with the application you will find the necessary filing fee as well as the consent agreements signed by Jay Jensen and Leon Folkman. You will also find a GIS map showing the current and proposed points of diversion as well as the proposed place of use. If you have any questions, do not hesitate to contact me.

Best Regards,

Luke H. Marchant
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

G:\WPDATA\RLHM6450 Telford Lands LLC\012\2015-05-12. Holliday.docx

Established in 1896

12/99

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: TC-34-142

Applicant's Name: TELFORD LANDS LLC

Watermaster's Recommendation:

- a) LY 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 14 day of May, 2015.

Water District No: 34

[Signature]
Watermaster's Signature

Use reverse side of page if you need more space.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: TC-34-142

Applicant's Name: TELFORD LANDS 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 14 day of May, 2015

Water District No: 34

[Signature]
Watermaster's Signature

Use reverse side of page if you need more space.

BZRID, mgr.