

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

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT NOS.: 34-14086)
_____)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-34-139

2015

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 April 29, 2015, Moss Farms Inc. submitted the attached temporary change application TC-34-139 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. 34-14086 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-34-139

5. Rights 34-14038, 34-14039, 34-14086, 34-14426, 34-126 and 34-127 when combined shall not exceed the irrigation of 127.6 acres, and a total diversion rate of 0.02 cfs per acre and a total annual maximum diversion volume of 446.6 af at the field headgate.
6. Moss Farms Inc. shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the original place of use authorized under this right.
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 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.
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 15, 2015 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 4th day of May, 2015.



Lyle Swank
Eastern Regional Manager

RECEIVED
APR 29 2015
Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TEMPORARY CHANGE APPLICATION

Tc-34-139

(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 Moss Farms Inc. Phone 208-406-1600
Mailing Address 3286 N 3350 W, Moore, ID 83255 Email mx222moss@aol.com

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. _____
Moving ground water to property due to lack of surface water this year.

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>34-14086</u>	<u>5/14/1977</u>	<u>1.87 cfs</u>	<u>Irrigation</u>	<u>4/15</u> to <u>10/15</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 1.87 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	¼	¼	¼	County	Source	Local name or tag number
6N	26E	31			NW	SE	Butte	Ground water	A0007511

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	26E	31			10.4	1.0									1.0	4.8	19	29	65.2
		32							2.0			2.6	27						31.6

Total Acres 96.8

6. General Information:

- a. Who owns the water right to be changed? Estate of Karen Harney & Big Lost River Subdivision ⁴⁰¹⁷
- b. Describe the arrangement allowing use of the right. Personal verbal arrangement between parties to allow use for 2015 irrigation season
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Land will not be irrigated if approved
- 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? It would not be, or would be transferred by another party
- f. Describe other water rights used for the same purpose. Other surface rights overlap but are unavailable
- g. Remarks: As the surface rights are undeliverable, the ground water rights will be used as a primary source of water on proposed lands.

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.

Dennis Moad
Signature of Applicant

4-29-15
Date

FOR DEPARTMENT USE ONLY

Received by SB Date 4/29/15 \$50 fee received by JS Receipt No. EC40958
Recommend: ☐ approve ☐ deny Watermaster recommendation _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

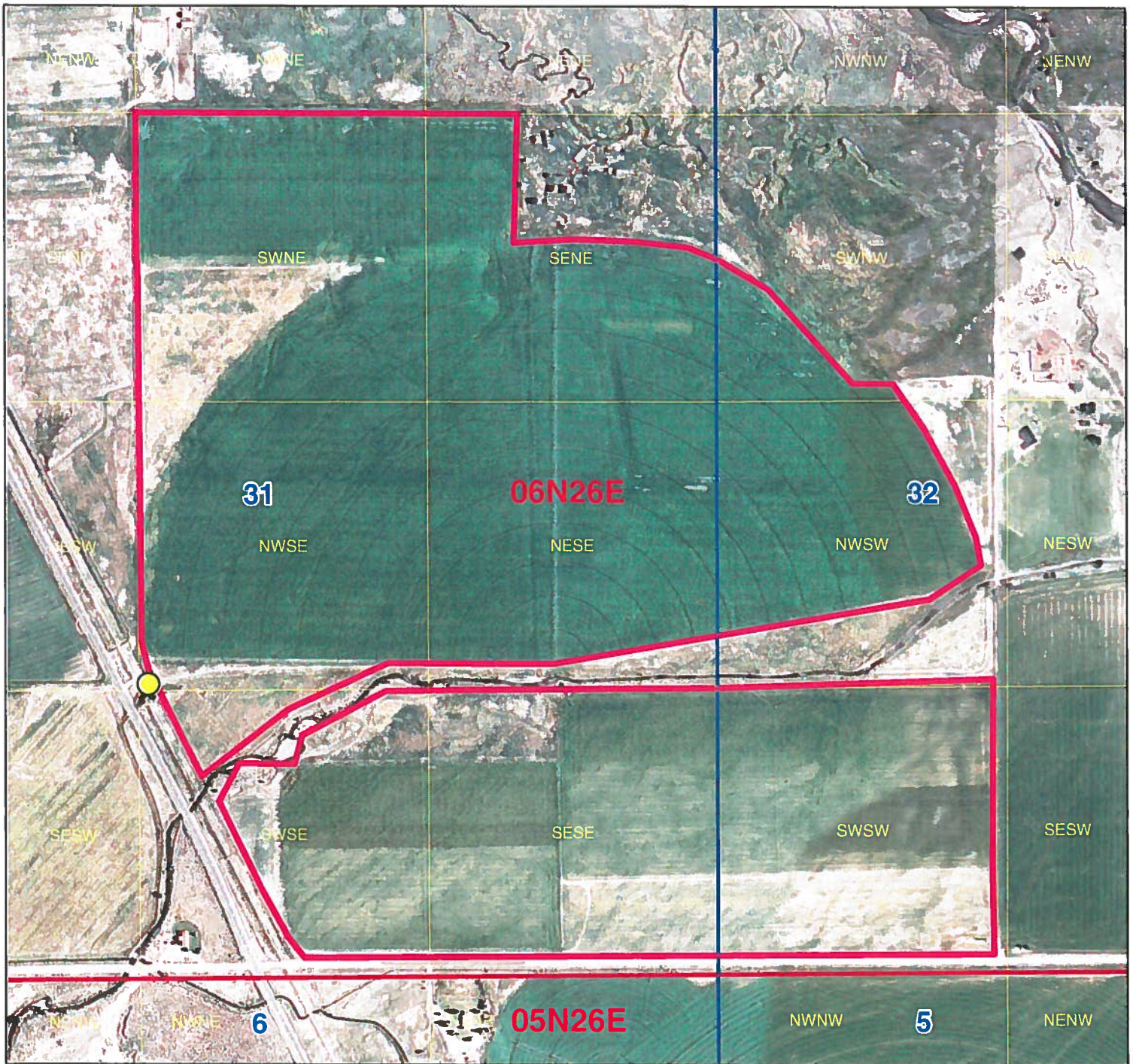
This is to certify that I have examined Temporary Change Application No. TC-34-139, and said application is hereby _____, subject to the following limitations and conditions:

Temporary Change Expiration Date _____

Signed this _____ day of _____

For the Director

State of Idaho
Department of Water Resources
Right 34-2379F, TC-34-128, TC-34-139 & WSB Rental Combined POU
Date: 5/1/2015



Legend

-  Proposed POD
-  Place of use
-  Township/Range
-  Sections
-  QQ

0 0.125 0.25 0.5 Miles



Water Lease Agreement

A portion of the following surface water rights are hereby leased from the Big Lost River Subdivision Home Owner's Association to Dennis Moss. The lease period shall be from April 20, 2015 to October 31, 2015. The amount of acreage included in this lease is for irrigating 120.1 acres, with a proportional diversion rate from water right number 34-126 and from water right number 34-127. This lease shall be included in and complimentary to, the leases for ground water rights 34-14038 and 34-14039 and 34-14086 with no additional fees for this lease.

Water Right No. 34-126	Point of Diversion – SWSESW/Sec. 11/T6N/R25E	
	Place of Use – NENE/Sec. 24/T6N/R25E	Acres 32
	NWNE/Sec. 24/T6N/R25E	Acres 5
	SENE/Sec. 24/T6N/R25E	Acres 25
	NWNW/Sec. 19/T6N/R25E	Acres 34
	SWNW/Sec. 19/T6N/R25E	Acres 34

Total Acres – 130 Diversion rate – 1.68 cfs

Water Right No. 34-127	Point of Diversion – SWSESW/Sec. 11/T6N/R25E	
	Place of Use – NENE/Sec. 24/T6N/R25E	Acres 32
	NWNE/Sec. 24/T6N/R25E	Acres 5
	SENE/Sec. 24/T6N/R25E	Acres 25
	NWNW/Sec. 19/T6N/R25E	Acres 34
	SWNW/Sec. 19/T6N/R25E	Acres 34

Total Acres – 130 Diversion rate – 1.52 cfs

Signed

John C. Johnson

Kit Christensen
Vice President

Big Lost River Subdivision Home Owner's Association

Date 4-28-2015

Signed

Dennis Moss

Date _____

Water Lease Agreement

The following water right is hereby leased from The Estate of Karen Harney to Dennis Moss. The amount of water to be leased is 1.87 cfs, to be used on 96.8 acres of crops. The purpose of the lease is for a Temporary Change Application to allow Dennis Moss to move this ground water right to a point of diversion location of his choice. The nature of use will be crop irrigation. The lease period shall be from April 27, 2015 to October 31, 2015. The fee for the lease shall be \$10.00 per acre.

Water Right No. 34-14086	Point of Diversion - SENE/Sec. 25/T6N/R25E	
	Place of Use – NENE/Sec. 24/T6N/R25E	Acres 12.2
	NWNE/Sec. 24/T6N/R25E	Acres 4.5
	SENE/Sec. 24/T6N/R25E	Acres 13.6
	NWNW/Sec. 19/T6N/R25E	Acres 27.5
	SWNW/Sec. 19/T6N/R25E	Acres 39

Total Acres - 96.8

Signed 
Dell Harney
Personal Representative
Estate of Karen Harney

Date 27 APR 2015

Signed _____
Dennis Moss

Date _____

RECOMMENDATION OF WATERMASTER

Application No: TC-34-139

Applicant's Name: MOSS FARMS INC

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 1 day of May, 2015

Water District No: 34

Watermaster's Signature
BLRID, Agri.

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: TC-34-139

Applicant's Name: MOSS FARMS INC

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 1 day of May, 2015.

Water District No: 34

[Signature]
Watermaster's Signature

Use reverse side of page if you need more space.