

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

2015

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT NOS.: 34-2357B,)
34-7055, and 34-10923)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-34-133

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 21, 2015, Jay Jensen submitted the attached temporary change application TC-34-133 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 rights 34-2357B, 34-7055, and 34-10923 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-34-133

5. Rights 34-852C, 34-7055, 34-7116, and 34-10923 when combined shall not exceed a total diversion rate of 4.80 cfs, a total annual maximum diversion volume of 1074.5 af, and the irrigation of 307 acres.
6. A portion of right 34-2357B, 0.36 cfs, is limited to use for conveyance losses in delivery of the 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 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 November 1, 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 28th day of April, 2015.



Lyle Swank
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 of a water right upon
declaration of a drought emergency in accordance with Section 42-222A, Idaho Code)

RECEIVED
APR 20 2015
Department of Water Resources
Eastern Region

Name of Applicant Jay and De Ann Jensen Phone _____
Mailing Address 3165 W. 3300 N., Moore, ID 83255-8724 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 is concerned about getting an adequate supply of water to his authorized place of use due to the drought and excessive amounts of conveyance losses. The Applicant has entered into an agreement with another water right owner to utilize their well which is located much closer to the Applicants' place of use.

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>34-2357B</u>	<u>03/31/1960</u>	<u>2.0 cfs</u>	<u>Irrigation</u>	<u>04/01</u> to <u>11/01</u>
<u>34-7055</u>	<u>12/20/1973</u>	<u>4.8 cfs</u>	<u>Irrigation</u>	<u>04/01</u> to <u>11/01</u>
<u>34-10923</u>	<u>04/12/1994</u>	<u>1.05 cfs</u>	<u>Irrigation</u>	<u>04/01</u> to <u>11/01</u>
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 7.85 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
<u>04N</u>	<u>26E</u>	<u>26</u>			<u>NW</u>	<u>NW</u>	<u>Butte</u>	<u>Ground water</u>	

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	
<u>03N</u>	<u>26E</u>	<u>13</u>									<u>40</u>	<u>39</u>	<u>33</u>	<u>39</u>			<u>40</u>	<u>27.4</u>	<u>218.4</u>
		<u>24</u>	<u>27.3</u>	<u>27.3</u>			<u>39</u>	<u>38</u>	<u>39</u>										<u>170.6</u>

Total Acres 389

6. General Information:

- a. Who owns the water right to be changed? Applicant
- b. Describe the arrangement allowing use of the right. _____
- 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 place of use.
- 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 water right would be used as it has in the past. The applicant hopes that this transfer will enable him to get more water to the place of use.
- f. Describe other water rights used for the same purpose. Water Right Nos. 34-852C and 34-7116 are also used at the place of use.
- g. Remarks: _____

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.

Julia H. Marshall
Signature of Applicant

04/20/2015
Date

FOR DEPARTMENT USE ONLY

Received by M. HOLLIDAY Date 4/21/15 \$50 fee received by ED40929 Receipt No. seo
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-34-133, and said application is hereby _____, subject to the following limitations and conditions:

Temporary Change Expiration Date _____

Signed this _____ day of _____, _____.

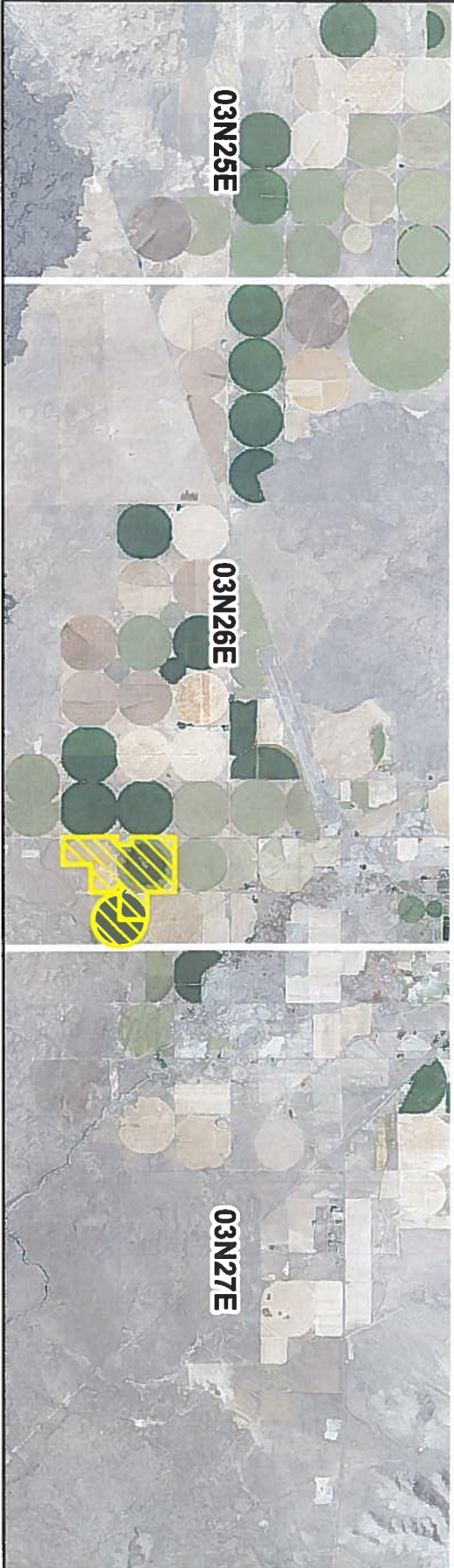
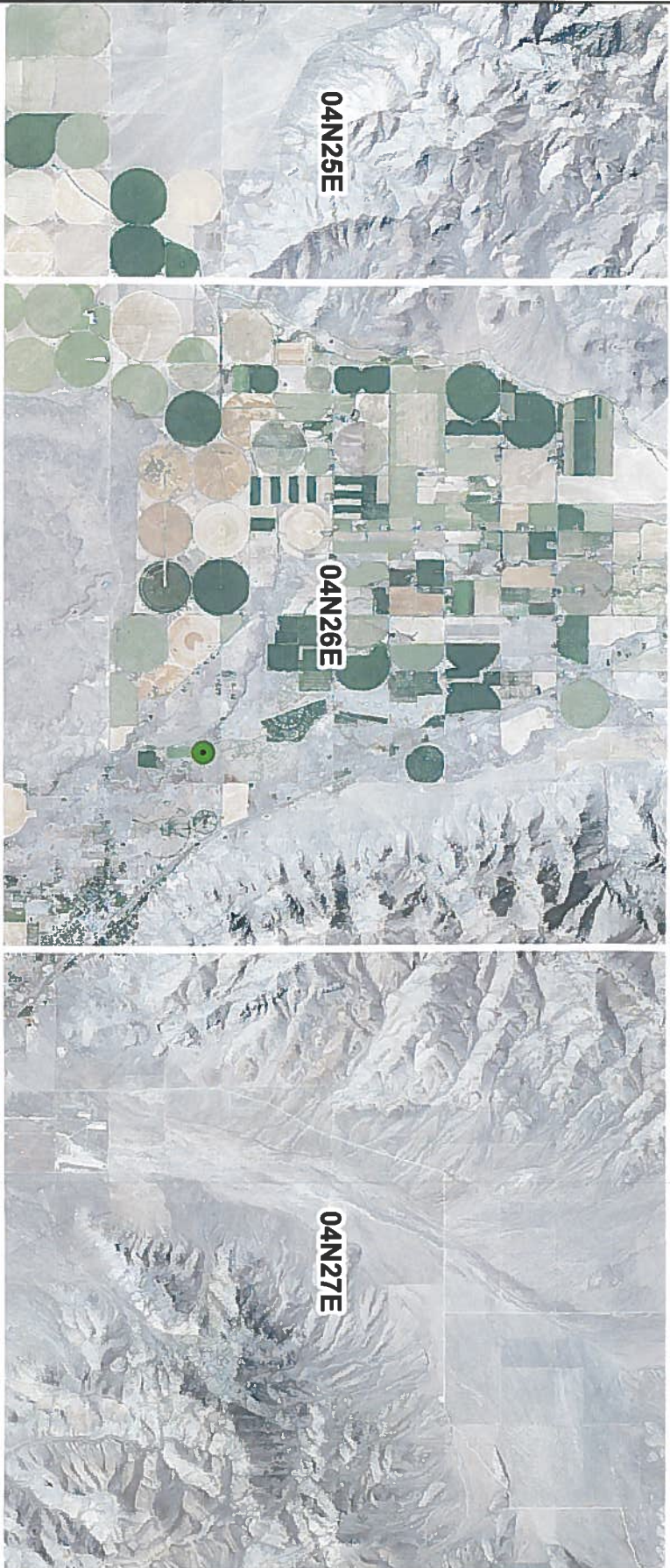
For the Director

JENSEN TEMPORARY CHANGE APPLICATION



Legend

- Current POD
- Proposed POD
- Proposed POU
- TR Lines



2013 NAIP Photo

Prepared by:
Luke H. Marchant
04/17/2015



Holden Kidwell
Hahn & Crapo P.L.L.C.
L A W O F F I C E S

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

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

Email: lmarchant@holdenlegal.com

April 20, 2015

RECEIVED
APR 20 2015
Department of Water Resources
Eastern Region

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

RE: Temporary Change Application for Water Right Nos. 34-2357B, 34-7055, and 34-10923

Dear Michael:

Enclosed for processing is a Temporary Change Application filed for Jay and De Ann Jensen. This application seeks to change the point of diversion for the water rights referenced above. These water rights are owned by the Jensens. The purpose of the transfer is to change the point of diversion for these water rights to a well that is approximately seven miles closer to the Applicants' place of use. The Applicants hope that in so doing, they will be able to get more water to their place of use by eliminated seven miles of conveyance loss. The proposed point of diversion is a well owned by Marilyn Lambert. The Applicants have entered into an agreement with Ms. Lambert authorizing them to use the well.

Along with the application, you will find the necessary filing fee as well as the agreement between the Jensens and Marilyn Lambert. 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

WATER RIGHT, WELL, & EASEMENT AGREEMENT

THIS WATER RIGHT, WELL, & EASEMENT AGREEMENT (this "Agreement") is made and entered into this 18 day of September, 2014 (the "Effective Date"), by and between MARILYN MOWREY LAMBERT, whose address is 2524 N. 3300 W., Arco, Idaho 83213 (hereinafter "Lambert"), and JAY AND DEANN JENSEN, husband and wife, whose address is 3320 W. 2800 N., Moore, Idaho 83255 (hereinafter "Jensens"). Lambert and Jensens are individually a "Party" and together the "Parties".

RECITALS:

A. Lambert is the owner of certain real property located approximately two and half (2.5) miles northwest of Arco, Idaho (the "Lambert Property").

B. Water Right Nos. 34-2386 and 34-7233, both ground water rights, (the "Water Rights") are appurtenant to the Lambert Property. The Water Rights were decreed on December 14, 2001 in the Snake River Basin Adjudication by the District Court for the Fifth Judicial District of the State of Idaho. The Water Rights are more fully described in the reports obtained from the Idaho Department of Water Resources ("Department" or "IDWR") attached hereto as **Exhibit 1**.

C. A well located in the NW1/4NW1/4NW1/4, of Sec. 26, 04N, 26E serves as the authorized point of diversion for the Water Rights. Another well located in the SE1/4NW1/4NW1/4, of Sec. 26, 04N, 26E serves as an additional authorized point of diversion for Water Right No. 34-7233.

D. The wells described in paragraph C above (the "Wells") have fallen into a state of disrepair and as a result, are unable to produce the water necessary for the Water Rights. Lambert has no desire to replace the Wells or to utilize the Water Rights. Instead, Lambert desires to obtain additional surface water for the irrigation of the Lambert Property.

E. Jensens farm land to the north and south of the Lambert Property for which they desire to obtain additional ground water rights.

F. Jensens are entitled to ten thousand (10,000) inches¹ of storage water from Mackay Reservoir through their membership in the Big Lost River Irrigation District, each year.

G. Lambert desires to convey the Water Rights to Jensens in exchange for [REDACTED] inches of their storage water described above in paragraph F.

¹ This unit of measurement is used locally in the Big Lost River Valley and it is understood that 50 inches of water equals 2 acre-feet of water. Thus, Jensens' 10,000 inches equals 200 acre-feet of water at the reservoir. After water is released from the Mackay reservoir there are conveyance losses in the system resulting in the loss of sometimes significant amounts of water before it reaches the field headgate. As a result, 10,000 inches of water in the reservoir does not equal 10,000 inches of water at the field. Furthermore, the availability of all 10,000 inches is dependent on water supplies each year, and it is understood that in dry years, not all 10,000 inches of water will be available. For example, if the reservoir only fills to 80% of capacity, Jensens are entitled to 80% of 10,000 inches, or 8,000 inches.

H. Jensens desire to drill a new well (the "Replacement Well") to replace the Wells in order to pump the Water Rights for delivery to their farm ground.

IN CONSIDERATION of the mutual representations, warranties, and covenants contained herein, the Parties, intending to be legally bound hereby, agree as follows:

AGREEMENTS:

1. First Contingency (Replacement Well Construction).

(a) This Agreement is contingent upon development of a successful Replacement Well. Lambert hereby consents to allow Jensens to construct the Replacement Well on the Lambert Property, at Jensens' sole cost and expense, and to provide access to the Lambert Property for purposes of constructing the Replacement Well.

(b) In the event that the Replacement Well is not successful, the determination of which shall be made by Jensens in their sole discretion, this Agreement shall be null and void and neither party will be under any further obligations to perform under this Agreement. In the event the Replacement Well is not successful, Jensens will not be entitled to any reimbursement of costs to drill the Replacement Well from Lambert.

(c) Upon a determination by the Jensens that the Replacement Well is successful, Lambert agrees to grant a perpetual easement (the "Easement") granting all necessary access to the Replacement Well to the Jensens. Furthermore, Lambert agrees to execute an easement document substantially in the form attached to this Agreement as **Exhibit 2** to convey the Easement to the Jensens.

(d) The Parties agree that nothing in this agreement shall be construed to give Lambert any interest, ownership or otherwise, in the Replacement Well. Furthermore, the parties agree that performance under these paragraphs is not subject to Paragraph 2 below.

2. Second Contingency (Amendment of Water Rights Through Transfer).

(a) Satisfactory Transfer Approval Contingency. Upon a determination by the Jensens that the Replacement Well is successful, Jensens shall file an application for transfer of a water right under Idaho law ("Application for Transfer" or "Transfer") of the Water Rights with the Department amending the Water Rights to be authorized to irrigate Jensens' farm or other property of Jensens' choosing. Because of the uncertainty associated with possibility of protest of the Transfer or other conditions that may be imposed by the Department through the Transfer (including a determination of forfeiture of some or all of the Water Rights), the Parties expressly acknowledge and agree that further performance under this Agreement (except for Paragraph 1 above) is also fully contingent upon the approval of the Application for Transfer by the Department in a manner satisfactory to the Jensens, unless such contingency is waived by the Jensens.

(b) Transfer Application Submission to the Department. Lambert and Jensens agree to cooperate in obtaining Department approval of the Transfer. Jensens shall be responsible for the costs associated with the Transfer, including all consultant fees for

preparation of the Transfer application and calculation of mitigation, as well as the costs of filing and prosecuting and defending the Transfer application, including all attorney fees, in the event the Transfer is protested and the subsequent administrative process associated with such protest(s). The Parties shall use best efforts to obtain timely Transfer approval.

3. Conveyance of the Water Rights and Assignment of Storage Water. If the Transfer described in Paragraph 2 is approved in a manner satisfactory to Jensens, then the Parties will proceed to close this transaction with the conveyance of the following:

(a) Water Rights to Jensens: Lambert shall convey the Water Rights to the Jensens. Lambert agrees to execute a Special Warranty Deed (the "Deed") substantially in the form attached to this Agreement as **Exhibit 3** to convey the Water Rights to the Jensens.

(b) Assignment of Storage Water to Lambert. In exchange for the Deed and the Easement, Jensens agree to convey [REDACTED] inches of their storage water described above in paragraph F to Lambert by executing a document substantially in the form attached to this Agreement as **Exhibit 4**.

4. Lambert's Representations and Warranties. Lambert hereby represents and warrants to Jensens, as of the effective date of this Agreement as follows:

(a) Authority. Lambert has the full legal power, right and authority to enter into this Agreement and to perform Lambert's obligations hereunder.

(b) Conveyance. Provided that the contingencies in Paragraph 3 are satisfied, Lambert shall then convey the Water Rights free and clear of all liens, encumbrances and restrictions, except such restrictions on the use of water as may appear on the water right records contained in **Exhibit 1** and in the Transfer approved by the Department.

(c) No Representation or Warranty Concerning Suitability for Jensens' Intended Use. Lambert has not made, and hereby makes, no representation or warranty to Jensens except as expressly contained in this Agreement.

5. Jensens' Representations and Warranties. Jensens hereby represent and warrant to Lambert as of the effective date of this Agreement as follows:

(a) Authority. Jensens have the legal power, right and authority to enter into this Agreement and to perform Jensens' obligations hereunder.

(b) Jensens' Due Diligence. Jensens and Jensens' consultants and counsel have had a full opportunity to review all documents, records and other information made available to Jensens by Lambert and/or otherwise reasonably available to Jensens through public or other sources, related to the nature and extent of the Water Rights, the laws and rules affecting their transfer and use by Jensens, and the suitability or fitness of the Water Right for Jensens' intended purposes.

6. Miscellaneous.

(a) Attorneys' Fees. If either party commences any legal action or proceeding to enforce any of the terms of this Agreement (or for damages by reason of an alleged breach hereof), the prevailing party therein shall be entitled to recover from the other, in addition to any other relief granted, its reasonable attorney's fees, costs and expenses incidental to such legal action.

(b) Notices. Any notice under this Agreement shall be in writing and be delivered in person, by U.S. Mail, by private courier, or by facsimile. Notice shall be provided to the following:

Lambert

Marilyn Mowrey Lambert
2524 N. 3300 W.
Arco, ID 83213
(208) 604-1480

Jensens

Jay and DeAnn Jensen
3320 W. 2800 N.
Moore, ID 83255
(208) 390-2093

Jensens' Representative

Luke H. Marchant
Holden, Kidwell, Hahn & Crapo,
P.L.L.C.
P.O. Box 50130
Idaho Falls, ID 83405
(208) 523-0620

(c) Merger. This Agreement supersedes any and all other written or verbal agreements between the Parties hereto. Neither Lambert nor Jensens shall be bound by any understanding, agreement, promise, representation or stipulation, express or implied, not specifically contained herein.

(d) Remedies Cumulative. Upon any breach, any and all rights and remedies which either Party may have under this Agreement or by operation of law or equity, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other. No such right or remedy, whether exercised by said Party or not, shall be deemed to be in exclusion of any other right or remedy, any two or more of all such rights and remedies may be exercised at the same time or separately as desired.

(e) Further Documents. The Parties hereby agree that they shall sign such other and further documents as may be required to carry into effect the terms and conditions of this Agreement.

(f) Enforceability. The validity or enforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement or other provision hereof, shall in no way affect the validity or enforcement of the remaining provisions, or any part hereof.

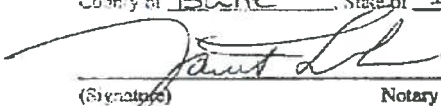
(g) Counterparts. This Agreement may be executed in any number of counterparts for the convenience of the Parties, all of which, when taken together and after execution by all Parties hereto, shall constitute one and the same Agreement.

(h) Governing Law. This Agreement shall be governed by the laws of the State of Idaho.

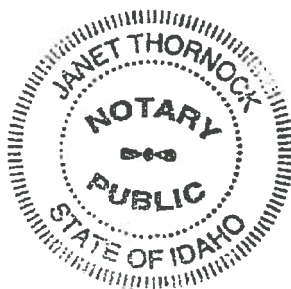
(i) Successors. This Agreement is for the benefit only of the Parties hereto and shall inure to the benefit of and bind their respective heirs, agents, personal representatives, successors and assigns.

(j) Essence of Time. Time is of the essence in this Agreement.

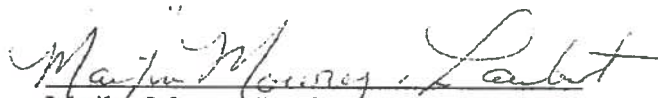
IN WITNESS WHEREOF, the undersigned have duly executed this Agreement effective on the date set forth above.

appeared and sworn to before me in my
office this 18th day of September
2014, a Notary Public in and for the
County of Butte, State of Idaho

(Signature) Notary Public

My Commission expires 9-16-2020

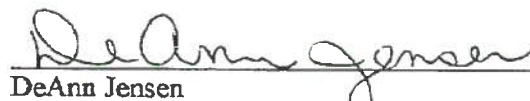


"LAMBERT"


Marilyn Mowrey Lambert

"JENSENS"


Jay Jensen


DeAnn Jensen

G:\WPDATA\RLH\17425 Jensen, Jay & DeAnn\01 General Water Rights\Agreement, Final.docx

Exhibit 1 Water Right Reports

Water Right Report

<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportAJ.asp?BasinN...>

Close

IDAHO DEPARTMENT OF WATER RESOURCES Water Right Report

8/18/2014

WATER RIGHT NO. 34-2386

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CLIFFORD LAMBERT
Current Owner	MARILYN LAMBERT
	2524 N 3300 W
	ARCO, ID 83213
	208-604-1480
Original Owner	ROBERT L SPRAKER
	2652 N 3300 W
	ARCO, ID 83213
	(208)527-3278

Priority Date: 09/09/1960

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/01	10/31	1.66 CFS	290.5 AFA
Total Diversion			1.66 CFS	

Location of Point(s) of Diversion:

GROUND WATER|NWNWNW|Sec. 26|Township 04N|Range 26E|BUTTE County

Exhibit 1

Water Right Reports

Water Right Report

<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportAJ.asp?BasinN...>

Place(s) of use:

Place of Use Legal Description: IRRIGATION BUTTE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
04N	26E	26		NENW 3			NWNW 8			SWNW 16			SENW 18	
				NESW 24			NWSW 14							

Total Acres: 83

Conditions of Approval:

1. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.81 CFS. COMBINED RIGHT NOS.: 34-00265, 34-00264 AND 34-00434.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 150 ACRES IN A SINGLE IRRIGATION SEASON, COMBINED RIGHT NOS.: 34-00265, 34-00264 AND 34-00434.
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.
4. RIGHT NO. 34-07233 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

Dates:

Licensed Date:

Decreed Date: 12/14/2001

Permit Proof Due Date:

Permit Proof Made Date:

Permit Approved Date:

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Exhibit 1 Water Right Reports

Water Right Report

<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportAJ.asp?BasinN...>

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number: 34

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 150

Combined Volume Limit:

Combined Rate Limit: 3.81

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

Exhibit 1 Water Right Reports

Water Right Report

<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportAJ.asp?BasinN...>

Close

IDAHO DEPARTMENT OF WATER RESOURCES Water Right Report

8/18/2014

WATER RIGHT NO. 34-7233

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CLIFFORD LAMBERT
Current Owner	MARILYN LAMBERT
	2524 N 3300 W
	ARCO, ID 83213
	208-604-1480
Original Owner	SPENCER W TOONE
	PO BOX 820
	ARCO, ID 83213
	(208)527-3305

Priority Date: 03/06/1986

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/01	11/01	1.34 CFS	234.5 AFA
Total Diversion			1.34 CFS	

Location of Point(s) of Diversion:

GROUND WATER	NWNWNW	Sec. 26	Township 04N	Range 26E	BUTTE County
GROUND WATER	SENWNW	Sec. 26	Township 04N	Range 26E	BUTTE County

Exhibit 1

Water Right Reports

Water Right Report

<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportAJ.asp?BasinN...>

Place(s) of use:

Place of Use Legal Description: IRRIGATION BUTTE County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
04N	26E	26		NENW	3		NWNW	3		SWNW	19			
				NWSW	16		SWSW	4						
		27		SENE	22									

Total Acres: 67

Conditions of Approval:

1. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.81 CFS. COMBINED RIGHT NOS.: 34-00264, 34-00265 AND 34-00434.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 150 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-00264, 34-00265 AND 34-00434.
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.
4. RIGHT NO. 34-02386 IS ALSO DIVERTED THROUGH POINT OF DIVERSION IN T04N, R26E, S26, NWNWNW.

Dates:

Licensed Date:

Decreed Date: 12/14/2001

Permit Proof Due Date: 10/1/1984

Permit Proof Made Date: 3/6/1986

Permit Approved Date: 10/16/1979

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date: 08/15/1979

Protest Deadline Date:

Number of Protests: 0

Exhibit 1 Water Right Reports

Water Right Report

<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportAJ.asp?BasinN...>

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number: 34

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 150

Combined Volume Limit:

Combined Rate Limit: 3.81

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

[Close](#)

Exhibit 2
FORM OF EASEMENT

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Luke H. Marchant, Esq.
Holden, Kidwell, Hahn & Crapo, PLLC
PO Box 50130
Idaho Falls, ID 83405-0130

(Space Above for Recorder's Use)

GRANT OF EASEMENT

THIS INDENTURE is made by and between MARILYN MOWREY LAMBERT, a single woman, whose address is 2524 N. 3300 W., Arco, ID 83213 (Grantor), and JAY AND DEANN JENSEN, husband and wife, whose address is 3320 W. 2800N., Moore, ID 83255 (Grantees).

WITNESSETH:

1. Grantees are the owners of farmland in Butte County, Idaho, which is irrigated with both surface and ground water pursuant to valid water rights under Idaho law. Grantee's farmland is more particularly described in the legal descriptions attached hereto as Exhibit 1 ("Grantees' Farmland").
2. Grantor and Grantees desire to establish a perpetual easement across a portion of the south 1/2 of the NW1/4NW1/4, of Section 26, Township 4 North, Range 26 East, Boise Meridian for the sole purpose of installation, maintenance, and operation of a well and associated pipeline.

THEREFORE, GRANTOR, for and in consideration of the sum of Ten Dollars (\$10.00) lawful money of the United States of America, and other good and sufficient consideration, to GRANTOR, in hand paid by GRANTEES, receipt of all of which does hereby grant and convey unto GRANTEES, their heirs, assignees and successors in interest, a perpetual easement in Butte County, Idaho, described as follows:

Location: For the location of a well and associated pipeline within the south 1/2 of the NW1/4NW1/4, of Section 26, Township 4 North, Range 26 East, Boise Meridian, all as depicted on Exhibit 2 attached hereto. Either Grantor or Grantees may have the location of the easement surveyed and thereafter described with a metes and bounds legal description. Such survey will be performed at the requesting party's sole cost and expense. The metes and bounds legal description may thereafter be recorded as a correction deed to this easement, but it is

Exhibit 2
FORM OF EASEMENT

understood and agreed by the parties that the substituted metes and bounds legal description shall have no effect on the validity of this easement.

Scope: The easement shall be for a well and associated pipeline, and shall also include an undefined, but reasonable and necessary, width for secondary rights of access for installation, repair, and maintenance of the well and pipeline as provided for under Idaho Code § 42-1102 and Idaho Code § 42-1204.

Benefitted Property: The easement and all rights and privileges incidental thereto are appurtenant to and non-severable from Grantees' Farmland described herein and shall run with the land. The grant of easement herein is further deemed to be an easement in gross personal to the Grantees that may be used to service property other than Grantees' Farmland, which easement in gross Grantees may also assign, as long as such uses do not enlarge the scope of the easement described herein.

IN WITNESS WHEREOF, the Grantor and Grantees have hereunto subscribed their names.

“GRANTOR”

Dated _____

Marilyn Mowrey Lambert

STATE OF IDAHO)
)ss.
County of)

On this ____ day of _____, 2014, before me a notary public in and for said State, personally appeared MARILYN MOWREY LAMBERT, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me they execute 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.

(seal)

Notary Public for Idaho
Residing at:
My commission expires:

Exhibit 2
FORM OF EASEMENT
"GRANTEES"

Jay Jensen

DeAn Jensen

STATE OF IDAHO)
)ss.
County of)

On this ____ day of _____, 2014, before me a notary public in and for said State, personally appeared JAY JENSEN AND DEANN JENSEN, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me they execute 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.

(seal)

Notary Public for Idaho
Residing at:
My commission expires:

Exhibit 2
FORM OF EASEMENT
Exhibit 1
Grantees' Farmland

County of Butte, State of Idaho

Township 3 North, Range 26 East, Boise Meridian, Butte County, Idaho

SECTION 13: SW1/4, SW1/4SE1/4

SECTION 24: N1/2NW1/4, SW1/4NW1/4

EXCEPTING THEREFROM the following:

Being a portion of the south half of SECTION 13, Township 3 North, Range 26 East of the Boise Meridian, Butte County, Idaho, described as follows:

Beginning at a point 10 feet north of the SE corner of the SW 1/4 of Section 13, Thence East 20 feet; Thence North 336 feet to the beginning of a non-tangent curve; Thence from a tangent that bears North 14°09'20" East, along a curve to the right having a central angle of 52°58'08", a radius of 1439.14 feet, an arc length of 1330.45 feet and whose chord bears North, 40°38'24" East, a distance of 1283.58 feet; Thence West 836.00 feet to a point 20 feet west of the East side of the SW1/4 of Section 13; Thence South 369.06 feet to the beginning of a non-tangent curve; Thence from a tangent that bears South 18°48'15" West, along a curve to the right having a central angle of 44°23'43", a radius of 1650.06 feet, an arc length of 1278.54 feet and whose chord bears South 41°00'07" West, a distance of 1246.79 feet to a point 10 feet north of the South side of Section 13; Thence 798 feet East to the Point of Beginning.

Boise Meridian, Butte County, Idaho

T.3 N., R. 26 E.,
 section 13, SE1/4SE1/4;
 section 24, N1/2NE1/4.

Containing 120 acres.

EXCEPTING AND RESERVING TO THE UNITED STATES:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).
2. All leasable mineral deposits in the land so quitclaimed, and to it or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same upon compliance with the conditions and subject to the provisions and limitations of the Act of July 17, 1914, as supplemented (30 U.S.C. 121-124).

Exhibit 2
FORM OF EASEMENT
Exhibit 2

Depiction of Easement Location

(to be completed after construction of Replacement Well and installation of pipeline)

**Exhibit 3
FORM OF DEED**

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Luke H. Marchant, Esq.
Holden, Kidwell, Hahn & Crapo, PLLC
PO Box 50130
Idaho Falls, ID 83405-0130

(Space Above for Recorder's Use)

Special Warranty Deed for Water Right

MARILYN MOWREY LAMBERT, a single woman, whose address is 2524 N. 3300 W., Arco, ID 83213 (Grantor) does hereby grant, bargain, sell, assign, and convey unto JAY AND DEANN JENSEN, husband and wife, whose address is 3320 W. 2800N., Moore, ID 83255 (Grantee) and to Grantee's heirs and assigns forever, all of Grantor's right title and interest in Water Right Nos. 34-2386 and 34-7233 as described in Exhibit A hereto (collectively the "Water Rights").

Grantor hereby covenants and warrants to Grantee as follows:

- (A) Grantor is the owner of the Water Rights;
- (B) Grantor has not conveyed any of the Water Rights to anyone other than Grantee;
- (C) The Water Rights are free from all liens, claims, or encumbrances; and
- (D) Grantor has the authority to convey the Water Rights to Grantee.

Grantor makes no other covenants or warranties as to the Water Rights.

DATED this _____ day of _____, 2014.

Marilyn Mowrey Lambert

Exhibit 3
FORM OF DEED

STATE OF IDAHO)
) ss.
County of _____)

On this _____ day of _____, 2014, before me, a Notary Public for said County and State, personally appeared MARILY MOWREY LAMBERT, a single woman, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me they execute 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 FOR IDAHO
Residing at: _____
My commission expires: _____

Exhibit 3
FORM OF DEED
EXHIBIT A
WATER RIGHT DESCRIPTION
(to be completed based upon Transfer Approval)

Exhibit 4
FORM OF CONVEYANCE OF STORAGE WATER

NOTICE OF ASSIGNMENT OF STORAGE SPACE AND CONSENT

Notice is hereby given to BIG LOST RIVER IRRIGATION DISTRICT of Arco, Idaho (hereinafter "BLRID"), by JAY AND DEANN JENSEN, husband and wife, whose address is 3320 W. 2800N., Moore, ID 83255 (hereinafter "Assignors"), record owners of 10,000 inches of storage space held in Mackey Reservoir, that Assignors have transferred or sold its entire rights, titles, and interest in _____ inches of said storage space to MARILYN MOWREY LAMBERT, a single woman, whose address is 2524 N. 3300 W., Arco, ID 83213 (Hereinafter "Assignee").

BLRID is hereby authorized to make this transfer to Assignee on its official records and books.

Assignor warrants that Assignor is the legal and lawful owner of said storage space and has full authority to assign the same to Assignee.

Assignor and Assignee represent that they each understand that prior to any duty to transfer said rights as requested herein, all assessments, penalties and delinquent fees must be paid to BLRID in full.

Assignee acknowledges that Assignee has examined the bylaws, rules and regulations and policies of BLRID and further acknowledges that Assignee is familiar with the terms of such documents and understands that this assignment is subject to such terms. Furthermore, Assignee agrees to abide by and be subject to such terms.

DATED this _____ day of _____, 20____.

"ASSIGNORS"

Jay Jensen

DeAnn Jensen

"ASSIGNEE"

Marilyn Mowrey Lambert

12/99

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: TC-34-133

Applicant's Name: JAY JENSEN

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) LY

I oppose approval of this application for the following reasons:

Use of water right 34-07055 and 34-10923 is limited
to a combined diversion rate of 4.80 cfs. This would
limit the total amount transferred to 6.8 cfs

d) ☐ Additional Comment: _____

Dated this 23 day of April, 2015.

Water District No: 34

[Signature]
Watermaster's Signature

Use reverse side of page if you need more space.

* PER TELECONFERENCE W/ LUCAS ON 4/23/15, IT WAS HIS
INTENT TO MARK "B" RATHER THAN "C" ABOVE. HE DOES NOT
OPPOSE IF CFS IS PROPERLY LIMITED. M. HOLLIDAY