

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

2015

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT NOS.: 34-182 and)
34-381A)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-34-129

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 20, 2015, Moss Farms Inc. submitted the attached temporary change application TC-34-129 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 34-182 and the changed portion of right 34-381A 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.**

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5. Rights 34-182, 34-381A, and 34-2379F when combined shall not exceed a total diversion rate of 5.20 cfs and the irrigation of 200 acres.
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 does not grant any right-of-way or easement to use the diversion works or conveyance works of another person or entity.
9. The Watermaster of Water District No. 34 is authorized to administer the temporary change approval.
10. 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 24th day of April, 2015.



Lyle Swank
Eastern Regional Manager

TC-34-129

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

APR 20 2015

Department of Water Resources
Eastern Region

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 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. _____
These water rights cannot be delivered to the current place of use, but they can be delivered to the proposed 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>34-182</u>	<u>6/1/1883</u>	<u>1.6 cfs</u>	<u>Irrigation</u>	<u>5/01</u> to <u>10/15</u>
<u>34-381A</u>	<u>9/26/1894</u>	<u>1.6 cfs</u>	<u>Irrigation</u>	<u>5/1</u> to <u>10/15</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 3.2 cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Big Lost River tributary to Sinks
4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
<u>5N</u>	<u>26E</u>	<u>4</u>			<u>SE</u>	<u>SE</u>	<u>BUTTE</u>	<u>BIG LOST RIVER</u>	<u>EASTSIDE</u>

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	
<u>5N</u>	<u>26E</u>	<u>34</u>	<u>31</u>			<u>16</u>													<u>47</u>
		<u>35</u>						<u>22</u>	<u>11</u>										<u>33</u>

Total Acres 80

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:
Land will be irrigated by ground water provided by existing right and Emergency Transfer. A small portion of remaining surface water right and storage rights may be used if available.
- 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 likely not be used since it is undeliverable through the 3 in 1 Canal.
- f. Describe other water rights used for the same purpose. Ground water overlaps original, but will not be moved.
- g. Remarks: Proposed rights will be delivered through the Eastside Canal to the proposed property where there are other surface water rights and storage that are not sufficient to irrigate this property all season.

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 Moss & Moss Farms, Inc 4-20-2015
Signature of Applicant Date

FOR DEPARTMENT USE ONLY

Received by M. HOLLIDAY Date 4/20/15 \$50 fee received by AS Receipt No. E040920
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-34-129, and said application is hereby _____, subject to the following limitations and conditions:

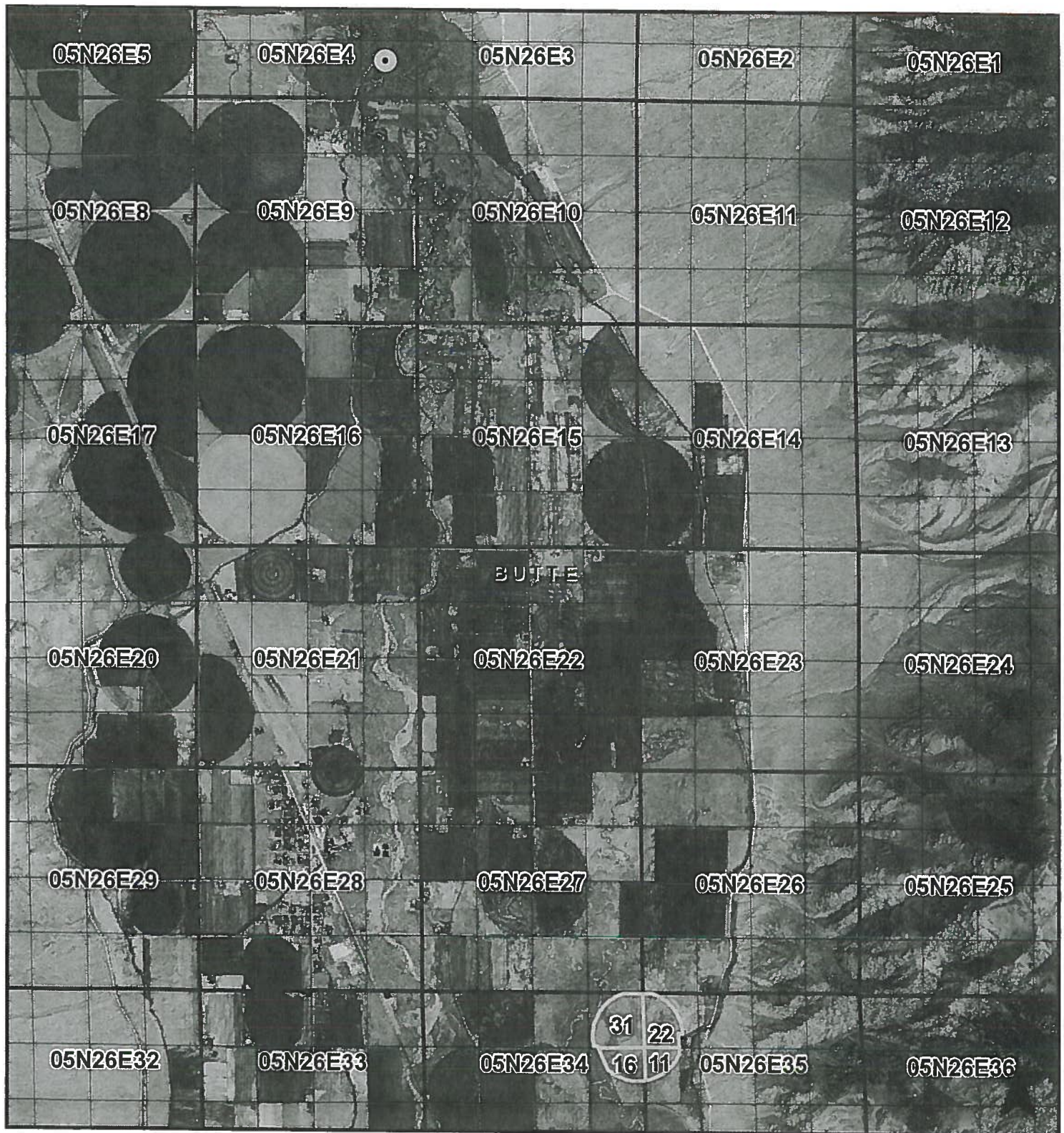
Temporary Change Expiration Date _____

Signed this _____ day of _____, _____.

For the Director

Temporary Change Transfer Application

Moss Farms Inc



EmTx_POD_Eastside

Proposed POU

Township and Range

Section

QQ

0 0.5 1 2 Miles

2011 NAIP Photography



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: TC-34-129

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 23 day of April, 2015.

Water District No: 34

[Signature]
Watermaster's Signature

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: TC-34-129

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 23 day of April, 2015.

Water District No: 34

J. N. Rallich
Watermaster's Signature
BERID, Mgr.

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