

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

2015

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT NOS.: 34-14038 and)
34-14039)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-34-128

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-34-128 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. 34-14038 and 34-14039 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-34-128

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. The use of water for irrigation under rights 34-14038 and 34-14039 may continue to as late as October 31, provided other elements of the rights are not exceeded. The use of water after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than November 8, 2007.
7. Moss Farms Inc. shall limit the diversion of ground water under these rights 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 these rights.
8. 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.
9. 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.
10. 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.
11. The Watermaster of Water District No. 34 is authorized to administer the temporary change approval.
12. This temporary change approval expires on October 31, 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

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. _____
Surface water not likely to be deliverable this year. Moving water rights to more valuable land due to drought
conditions.

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>34-14038</u>	<u>5/14/1977</u>	<u>0.16 cfs</u>	<u>Irrigation</u>	<u>4/20</u> to <u>10/31</u>
<u>34-14039</u>	<u>5/14/1977</u>	<u>0.29 cfs</u>	<u>Irrigation</u>	<u>4/20</u> to <u>10/31</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 0.45 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
6N	26E	31			NW	SE	Custer	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	
6N	26E	31															5	9.3	14.3
		32										9							9.0

Total Acres 23.3

6. General Information:

- a. Who owns the water right to be changed? Kivi Land & Livestock
- b. Describe the arrangement allowing use of the right. Written lease agreement.
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Will be dry.
- 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? _____
Would not be used.
- f. Describe other water rights used for the same purpose. Portions of 34-126 and 34-127
- g. Remarks: The portions of surface water appurtenant to dried up land will not be used.

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 For Moss Farms inc
Signature of Applicant

4-20-15
Date

FOR DEPARTMENT USE ONLY

Received by M HOLLIDAY Date 4/20/15 \$50 fee receipted by [Signature] 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-34-128, and said application is hereby _____, subject to the following limitations and conditions:

Temporary Change Expiration Date _____

Signed this 24th day of April, 2015.

[Signature]
For the Director

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 23.3 acres, with a proportional diversion rate of .30 cfs from water right number 34-126 and .27 cfs 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, 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

Kit Christensen

Vice President

Big Lost River Subdivision Home Owner's Association

Date _____

4-18-2015

Signed

Dennis Moss

Date _____

Water Lease Agreement

The following ground water rights are hereby leased from KIVI Land & Livestock, LLC to Dennis Moss. The purpose of the lease is for a Temporary Change Application to allow Dennis Moss to move these ground water rights to a point of diversion location of his choice. The nature of use will be crop irrigation. The lease period shall be from April 20, 2015 to October 31, 2015. The fee for the lease shall be [REDACTED] per acre.

Water Right No. 34-14038 Point of Diversion – SENE/Sec. 25/T6N/R25E
Place of Use – NENE/Sec. 24/T6N/R25E
Total Acres – 8.1

Water Right No. 34-14039 Point of Diversion – SENE/Sec. 25/T6N/R25E
Place of Use – NENE/Sec. 24/T6N/R25E
Total Acres – 15.2

Signed



Kit Christensen

Manager, KIVI Land & Livestock, LLC

Date

4-18-2015

Signed

Dennis Moss

Date

12/99

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: TC-34-128

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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12/99

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: TC-34-128

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. A. Edlrich
Watermaster's Signature
BLRID, Mgr

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