

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

**2014**

IN THE MATTER OF APPLICATION )  
FOR TEMPORARY CHANGE OF )  
WATER RIGHT NOS.: 34-14038, )  
34-14039, and 34-14086 )  
\_\_\_\_\_ )

**ORDER AUTHORIZING  
TEMPORARY CHANGE**

**TC-34-120**

**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 June 30, 2014, James Babcock submitted the attached temporary change application TC-34-120 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, 34-14039, and the changed portion of 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-34-120**

5. Rights 34-14038, 34-14039, 34-14086, 34-14426 and the appurtenant share of rights 34-126 and 34-127 when combined shall not exceed a total diversion rate of 0.02 cfs per acre, a total annual maximum diversion volume of 446.6 af at the field headgate, and the irrigation of 127.6 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 applicant is subject to all conditions and limitations listed on the application under the section titled "ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES".
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, 2014 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 2nd day of July, 2014.**

  
\_\_\_\_\_  
Lyle Swank  
Eastern Regional Manager

TC-34-120

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

RECEIVED

JUN 30 2014

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 James Babcock Phone 2085542662  
Mailing Address 3260 W 3000 N, Moore, ID 83255 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. \_\_\_\_\_  
Temporary lease of groundwater with change of pod and pou, to prevent loss of crop by lessee.

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

| 1. Right Number | Priority         | Amount<br>(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>4/15</u> to <u>10/15</u> |
| <u>34-14039</u> | <u>5/14/1977</u> | <u>0.29 cfs</u>       | <u>Irrigation</u> | <u>4/15</u> to <u>10/15</u> |
| <u>34-14086</u> | <u>5/14/1977</u> | <u>1.13 cfs</u>       | <u>Irrigation</u> | <u>4/15</u> to <u>10/15</u> |
| _____           | _____            | _____                 | _____             | _____ to _____              |

2. Total amount of water being transferred 1.58 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 |
|-----|-----|-----|----------|---|----|----|--------|--------------|--------------------------|
| 5N  | 26E | 34  |          |   | SE | NW | Butte  | Ground water | 864                      |
| 4N  | 26E | 10  |          |   | NW | NW | Butte  | Ground water | 213                      |
|     |     |     |          |   |    |    |        |              |                          |
|     |     |     |          |   |    |    |        |              |                          |

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 |             |
| 4N  | 26E | 3   |      |    |    |    | 25   |    |    | 15 |      |    |    |    |      |    |    |    | 40.0        |
| 5N  | 26E | 34  |      |    |    |    |      |    |    |    |      |    | 9  | 31 |      |    |    |    | 40.0        |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |

Total Acres 80.0

6. General Information:

- a. Who owns the water right to be changed? Kivi Land & Livestock, Estate of Karen Harney
- b. Describe the arrangement allowing use of the right. Written lease agreements (see attached).
- 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. 34-126, 34-127
- 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.

James L Babcock  
Signature of Applicant

6-30-14  
Date

**FOR DEPARTMENT USE ONLY**

Received by MH Date 6/30/14 \$50 fee received by JB Receipt No. E039992  
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-34-120, and said application is hereby \_\_\_\_\_, subject to the following limitations and conditions:

Temporary Change Expiration Date \_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
For the Director

## Water Lease Agreement

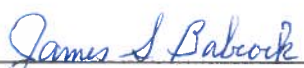
The following ground water rights are hereby leased from KIVI Land & Livestock, LLC to James Babcock. The purpose of the lease is for a Temporary Change Application to allow James Babcock to move these ground water rights to a point of diversion location of his choice. The nature of use will be crop irrigation. The lease period shall be from June 27, 2014 to October 31, 2014. The fee for the lease shall be \$10.00 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 6-27-14

Signed   
James Babcock

Date 6-27-14

# Water Lease Agreement

A portion of the following water right is hereby leased from The Estate of Karen Harney to James Babcock. The amount of water to be leased is 1.13 cfs, to be used on 56.7 acres of crops. The purpose of the lease is for a Temporary Change Application to allow James Babcock 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 June 27, 2014 to October 31, 2014. 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 Date 27 June 2014  
Dell Harney  
Personal Representative  
Estate of Karen Harney

Signed James S Babcock Date 6-30-14  
James Babcock

## 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 James Babcock. The lease period shall be from June 27, 2014 to October 31, 2014. The amount of acreage included in this lease is for irrigating 80 acres, with a proportional diversion rate of 1.03 cfs from water right number 34-126 and .94 cfs from water right number 34-127. This lease shall be included in and complimentary to, the leases for ground water rights 34-14038, 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  
                    NENE/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  
                    NENE/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       Date 6-29-2014  
Kit Christensen  
Vice President  
Big Lost River Subdivision Home Owner's Association

Signed       Date 6-30-14  
James Babcock

17/99

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: TC-34-120

Applicant's Name: JAMES BABCOCK

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 1 day of July, 2014.

Water District No: 34

M Todd Parker  
Watermaster's Signature

Use reverse side of page if you need more space.

12/99

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

## RECOMMENDATION OF WATERMASTER

Application No: TC-34-120Applicant's Name: JAMES BABCOCK

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 1 day of July, 2014.Water District No: 34E. R. Rillisch  
Watermaster's Signature  
mgr. BLRID

Use reverse side of page if you need more space.