

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

2014

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT NOS.: 34-13865,)
34-13868, 34-14040, and 34-14041)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-34-115

WHEREAS, a drought emergency has been declared for Custer 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 2, 2014, No Tellum Creek Ranch LLC submitted the attached temporary change application TC-34-115 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 the changed portions of right nos. 34-13865, 34-13868, 34-14040, and 34-14041 is authorized only at the point of diversion and place of use described on the application.**
- 4. This temporary change approval does not authorize construction of a new well as a point of diversion.**
- 5. 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.**
- 6. 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-34-115

7. Rights 34-13865 and 34-13868 when combined shall not exceed the irrigation of 7.3 acres. Right 34-13865 is limited to the irrigation of 4.9 acres within the authorized place of use in a single irrigation season.
8. Rights 34-14040 and 34-14042 when combined shall not exceed a total diversion rate of 0.95 cfs and the irrigation of 36 acres.
9. Rights 34-14041 and 34-14043 when combined shall not exceed a total diversion rate of 4.57 cfs and the irrigation of 173 acres.
10. 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.
11. 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.
12. 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.
13. The Watermaster of Water District No. 34 is authorized to administer the temporary change approval.
14. This temporary change approval expires on October 15, 2014 unless rescinded or extended by the director. Thereafter, the water rights shall revert to the point of diversion, place of use, and nature of use existing prior to the temporary change approval.

DATED this 3rd day of June, 2014.



Lyle Swank
Eastern Regional Manager

RECEIVED

JUN 02 2014

Department of Water Resources
Eastern RegionSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TEMPORARY CHANGE APPLICATION

TC-34-115

(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 No Tellum Creek Ranch LLCPhone 2085894122Mailing Address 5101 Old Chilly Rd, Mackay, ID 83251Email tboots2p@yahoo.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. _____
Dry up corners from existing pasture land and pivots and move to nearby pivot to get enough water for a crop under the pivot.

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>34-14040</u>	<u>10/12/1884</u>	<u>0.52 cfs</u>	<u>Irrigation</u>	<u>5/1 to 10/15</u>
<u>34-14041</u>	<u>10/12/1884</u>	<u>0.08 cfs</u>	<u>Irrigation</u>	<u>5/1 to 10/15</u>
<u>34-13865</u>	<u>4/22/1884</u>	<u>0.10 cfs</u>	<u>Irrigation</u>	<u>5/1 to 10/15</u>
<u>34-13868</u>	<u>6/1/1894</u>	<u>0.16 cfs</u>	<u>Irrigation</u>	<u>5/1 to 10/15</u>

2. Total amount of water being transferred 0.86 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	¼	¼	¼	County	Source	Local name or tag number
7N	24E	34		SE	NW	NW	Custer	Big Lost River	Burnett Canal

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	
7N	25E	31										34.2							34.2
												L3							

Total Acres 34.2

6. General Information:

- a. Who owns the water right to be changed? No Tellum Creek Ranch, Mackay Land Co., Diana Baxter
- b. Describe the arrangement allowing use of the right. Water rights will be used on the lands of the owners of the rights.
- 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? _____
Pivot corners and pasture would be watered.
- f. Describe other water rights used for the same purpose. 34-14043 and 34-14042
- 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.

[Signature]
Signature of Applicant

6-2-14
Date

FOR DEPARTMENT USE ONLY

Received by MWIS Date 6/2/14 \$50 fee received by SC Receipt No. E039878
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-34-115, and said application is hereby _____, subject to the following limitations and conditions:

Temporary Change Expiration Date _____

Signed this 3rd day of June, 2014.

[Signature]
For the Director

SCHEUDEVLLC INT

✓ Ranch Manager

I, Mark Scheu as Managing Member for No Tellum Creek Ranch, LLC, Owner of the water rights appurtenant to the ranch commonly known as No Tellum Creek Ranch (farm), Grant my Power of Attorney for the use of those water rights on the ranch (farm) until such time as I terminate this Power of Attorney in writing.
Seth Tiechert (Ranch Manager).

Signed: Mark

Mark Scheu, Managing Member

Dated: 3/4/11Notorized By: See Attachment

No tellum

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

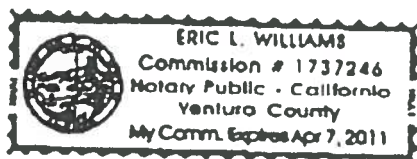
State of California

County of VENTURA

On 3/4/2011
Date

before me, ERIC L. WILLIAMS, NOTARY PUBLIC
Here Insert Name and Title of the Officer

personally appeared MARK SCHEU
Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature: [Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Description of Attached Document

Title or Type of Document: AFFIDAVIT RANCH MANAGER

Document Date: 3/4/2011

Number of Pages: 1 INCLUDING

Signer(s) Other Than Named Above: NO OTHER SIGNERS

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Corporate Officer — Title(s): _____
- ☐ Individual
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer's Name: _____

- ☐ Corporate Officer — Title(s): _____
- ☐ Individual
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

To Whom it May Concern:

I, Dianna Scheu (formerly Dianna Baxter)_as Managing Member for Cottonwood Grove Ranches, LLC, Owner of the water rights IDWR Number 34-13865 and 34-13868, Grant my Power of Attorney for the use of those water rights to Seth Tiechert as he sees fit until such time as I terminate this Power of Attorney in writing.

Signed: Di Scheu

Dianna Scheu, Managing Member

Dated: 6/2/14

To Whom it May Concern:

I, Mark Scheu as Managing Member for Mackay Land Company, LLC, Owner of the water rights IDWR Number 34-14040 and 34-14042, Grant my Power of Attorney for the use of those water rights to Seth Tiechert as he sees fit until such time as I terminate this Power of Attorney in writing.

Signed: 

Mark Scheu, Managing Member

Dated: 6/2/14

12/99

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

RECOMMENDATION OF WATERMASTER

Application No: TC-34-115Applicant's Name: NO TELLUM CREEK RANCH

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 2 day of June, 2014.Water District No: 34M 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-34-115

Applicant's Name: NO TELLUM CREEK RANCH

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 3 day of June, 2014.

Water District No: 34

[Signature]
Watermaster's Signature
Mqr. BLRID

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