

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

**2014**

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

**ORDER AUTHORIZING  
TEMPORARY CHANGE**

**TC-34-113**

**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 May 20, 2014, Moss Farms Inc. submitted the attached temporary change application TC-34-113 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.**

**ORDER AUTHORIZING  
TEMPORARY CHANGE**

**TC-34-113**

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 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 22nd day of May, 2014.**

  
**Lyle Swank**  
**Eastern Regional Manager**

TC-34-113

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**TEMPORARY CHANGE APPLICATION**

**RECEIVED**  
**MAY 20 2008**  
Department of Water Resources  
Eastern Region

(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<br>(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 | ¼ | ¼  | ¼  | County | Source         | Local name or tag number |
|-----|-----|-----|----------|---|----|----|--------|----------------|--------------------------|
| 5N  | 26E | 4   |          |   | SE | SE | BUTTE  | BIG LOST RIVER | EASTSIDE                 |
|     |     |     |          |   |    |    |        |                |                          |
|     |     |     |          |   |    |    |        |                |                          |
|     |     |     |          |   |    |    |        |                |                          |

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 |             |
| 5N  | 26E | 34  | 31   |    |    | 16 |      |    |    |    |      |    |    |    |      |    |    |    | 47          |
|     |     | 35  |      |    |    |    |      | 22 | 11 |    |      |    |    |    |      |    |    |    | 33          |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |
|     |     |     |      |    |    |    |      |    |    |    |      |    |    |    |      |    |    |    |             |

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.

Daniel Moad  
Signature of Applicant

5-20-14  
Date

FOR DEPARTMENT USE ONLY

Received by MWA Date 5/20/14 \$50 fee received by HBCHAC Receipt No. E039849  
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-34-113, and said application is hereby \_\_\_\_\_, subject to the following limitations and conditions:

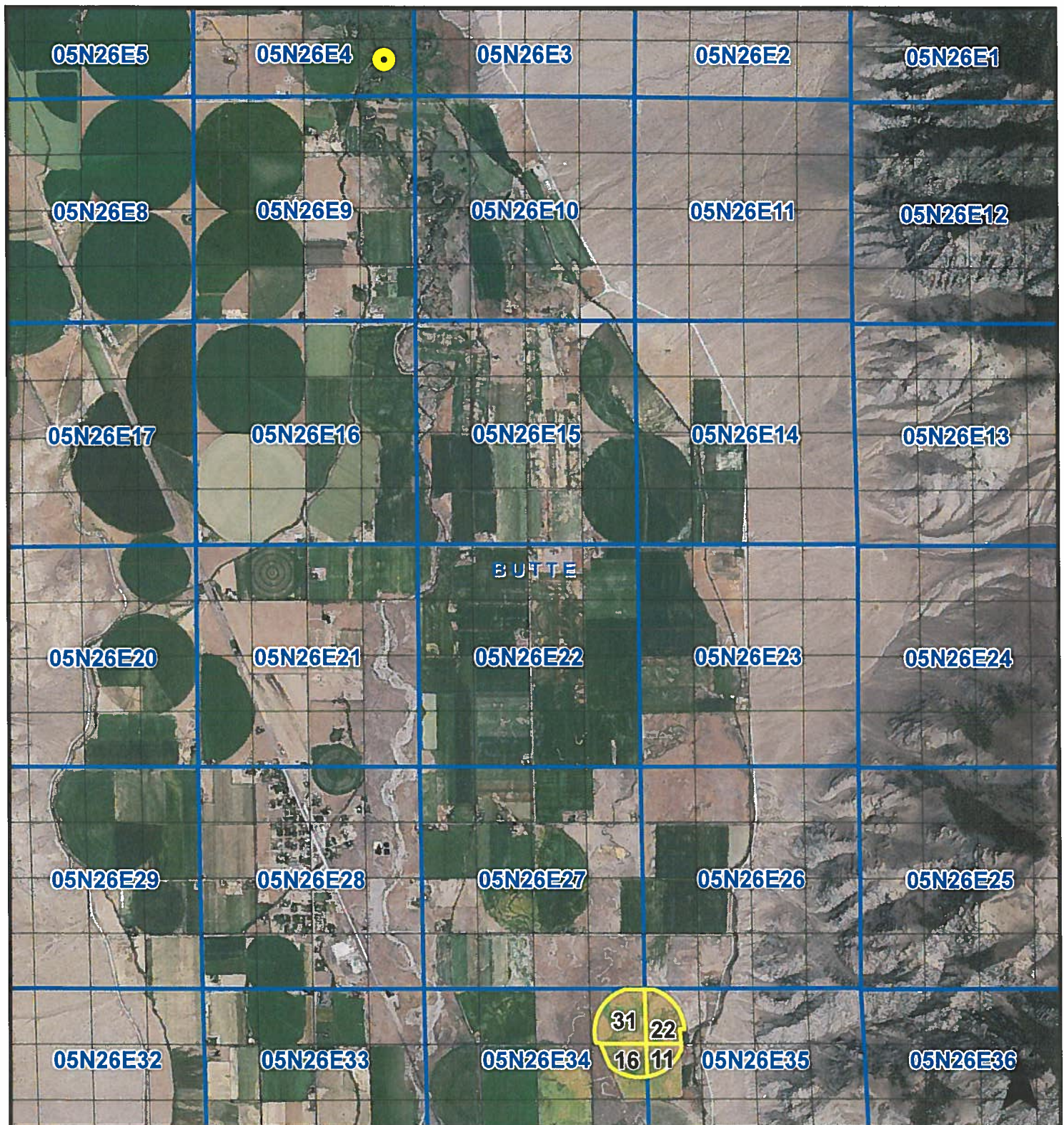
Temporary Change Expiration Date \_\_\_\_\_

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



12/99

**STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES**

**RECOMMENDATION OF WATERMASTER**

Application No: TC-34-113Applicant'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 21 day of May, 2014.Water District No: 34

*[Signature]*  
Watermaster's Signature  
mqr/BLRID

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-34-113

Applicant's Name: MOSS FARMS INC

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 21 day of May 2014

Water District No: 34

cm Todd Parker  
Watermaster's Signature

Use reverse side of page if you need more space.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA )  
Case No. 39576 )  
PARTIAL DECREE PURSUANT TO  
I.R.C.P. 54(b) FOR  
Water Right 34-00182

1998 NOV 20 PM 4:42

FILED  
TWIN FALLS CO., IDAHO

NAME AND ADDRESS: CATHERINE M WATSON  
LEE J. WATSON  
4177 RD L  
ORLAND, CA 95963

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

QUANTITY: 1.60 CFS

USE OF THIS RIGHT WITH RIGHT NOS. 34-00381A AND 34-02379F IS  
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 5.20 CFS.

PRIORITY DATE: 06/01/1883

POINT OF DIVERSION: T06N R25E S14 SENWSE Within Butte County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|-------------------------------|----------------|---------------|----------|
|                               | Irrigation     |               | 1.60 CFS |

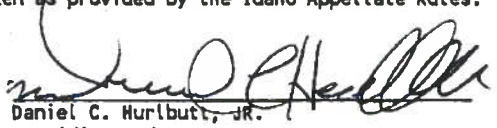
| PLACE OF USE: | Irrigation        |           | Within Butte County |
|---------------|-------------------|-----------|---------------------|
|               | T06N R26E S31     | SWNE 40.0 | SENE 26.0           |
|               |                   | NESE 39.0 | NWSE 39.0           |
|               |                   | SWSE 25.0 |                     |
|               | S32               | SNNW 8.0  | NWSW 35.0           |
|               | 212.0 Acres Total |           |                     |

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 ACRES WITHIN THE  
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH RIGHT NOS. 34-00381A AND 34-02379F IS  
LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 200 ACRES IN A  
SINGLE IRRIGATION SEASON.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

  
Daniel C. Hurlbutt, Jr.  
Presiding Judge  
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA )

Case No. 39576 )

PARTIAL DECREE PURSUANT TO 1998 NOV 20 PM 4:42  
I.R.C.P. 54(b) FOR

Water Right 34-00381A

NAME AND ADDRESS:

CATHERINE M WATSON  
LEE J. WATSON  
4177 RD L  
ORLAND, CA 95963

SOURCE:

BIG LOST RIVER

TRIBUTARY: SINKS

QUANTITY:

2.40 CFS

USE OF THIS RIGHT WITH RIGHT NOS. 34-00182 AND 34-02379F IS  
LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 5.20 CFS.

PRIORITY DATE:

09/26/1894

POINT OF DIVERSION:

T06N R25E S14

SENWSE

Within Butte County

PURPOSE AND  
PERIOD OF USE:

PURPOSE OF USE  
Irrigation

PERIOD OF USE

QUANTITY  
2.40 CFS

PLACE OF USE:

Irrigation  
T06N R26E S31

SWNE 40.0  
NESE 39.0  
SWSE 25.0  
SWNW 8.0

Within Butte County

SENE 26.0  
NWSE 39.0

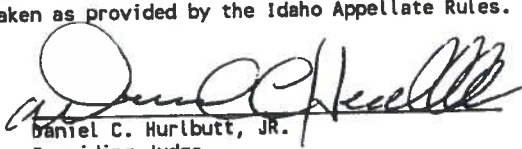
S32  
212.0 Acres Total

NWSW 35.0

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 120 ACRES WITHIN  
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.  
USE OF THIS RIGHT WITH RIGHT NOS. 34-00182 AND 34-02379F IS  
LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 200 ACRES IN A  
SINGLE IRRIGATION SEASON.

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