

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

RECEIVED

AUG 23 2012

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT 74-1556)

ORDER AUTHORIZING
TEMPORARY CHANGE

DEPARTMENT OF
WATER RESOURCES

TC-74-15

WHEREAS, a drought emergency has been declared for Lemhi 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 August 16, 2012, McFarland Livestock Co. Inc. submitted the attached Temporary Change Application TC-74-15 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:

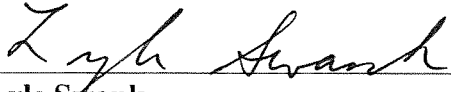
1. Diversion and use of the changed portion of right no(s). 74-1556 is authorized only at the point of diversion and place of use described on the application.
2. This temporary Change approval does not authorize construction of a new well as a point of diversion.
3. The applicant assumes all risk of 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. Right(s) 74-1556 is limited to the irrigation of a total of 166.4 acres in a single irrigation season. The changed portion of the right cannot be moved back to the original place of use until this temporary change approval expires.
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 shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
10. The Watermaster of Water District No. 74 is authorized to administer the temporary change approval.
11. This Temporary change approval expires on November 15, 2012 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 17th day of August, 2012.



Lyle Swank
Eastern Regional Manager

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TEMPORARY CHANGE APPLICATION

(To change point of diversion, place of use or purpose of use)

Name of Applicant M^cFarland Livestock Co., Inc. Phone 208/768-2711
Mailing Address P.O. Box 50, Lemhi, ID 83465 Email None

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 the reason(s) thereof change place of use to allow water to irrigate new seeding.

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

1. Right Number 74-1556 Priority 3/21/1889 Amount (cfs/ac-ft) 3.2 Nature of Use IRRIGATION Period of Use 8/16 to 10/15

2. Total amount of water being transferred 3.2 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Lemhi River tributary to Salmon River

4. Point(s) of Diversion:

Ident No.	Lot	1/4	1/4	1/4	Sec	Twp	Rge	County	Local name for diversion
			NW	NW	24	17N	24E	LEMHI	L-46A

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	24E	14							1		3.9	36.5	29.1	30			14		114.5
17N	24E	15													7.5				7.5

Total Acres 122

6. General Information:

- a. Who owns the water right to be changed? McFarland Livestock Co., Inc.
- b. Describe the arrangement allowing use of the right A pumping station shall pump 3.2 CFS of 74-1556 water to temporary place of use acreage for water right 74-1562
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application: We will dry 122 acres of 74-1556 right
- d. Has the water right sought to be transferred been used this year? yes If yes, explain. 74-1556 still in use since beginning of season
- e. Absent the changes, how would the right be used for the remainder of the year? Use for place of use under water right 74-1562
- f. Describe other water rights used for the same purpose.
- g. Remarks: SAME Diversion for both decreed water rights. 3.2 CFS to be transferred from 74-1556 to 74-1562

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.

McFarland Livestock Co., Inc.
By Melva M. Kauer, Sec.
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by M. HOLLIDAY Date 8/16/2012 Fee \$ 50
Receipted S. COX # E037906 Recommend: ☒ approve ☐ deny
Watermaster recommendation APPROVE

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. TC-74-15

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, _____.

For the Director

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

RECOMMENDATION OF WATERMASTER

Application No: TC-74-15

Applicant's Name: McFarland Livestock Co. 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 16 day of Aug, 2012

Water District No: 74

Reik Jager
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 74-01556

NAME AND ADDRESS: MC FARLAND LIVESTOCK
COMPANY INC
C/O TEX J KAUER
PO BOX 50
LEMHI, ID 83465

SOURCE: LEMHI RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 5.00 CFS
582.40 AFY

This right when combined with all other rights shall provide no
more than 3.5 afa per acre for irrigation of the lands above.

PRIORITY DATE: 03/21/1889

POINT OF DIVERSION: T17N R24E S24 NWNW Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	5.00 CFS 582.40 AFY

PLACE OF USE:	Irrigation	Within Lemhi County
	T17N R24E S14	NENW 7.8 SWNW 34.0 NESW 31.5 NWSE 17.7
		NWNW 14.6 SENW 36.8 NESE 5.5 SWSE 18.5
	166.4 Acres Total	

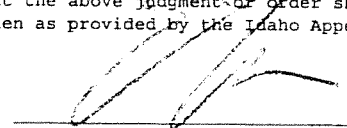
The use of water under this right does not include a use on
Federal public land.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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.


Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication