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AUG 08 2005

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

Department of Water Resources

IN THE MATTER OF APPLICATION FOR)
TEMPORARY CHANGE OF A)
WATER RIGHT 74-1554 & 74-1556 Part)
_____)
_____)

ORDER AUTHORIZING
TEMPORARY CHANGE

TC-74-11

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 purpose 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 July 27, 2005, McFarland Livestock & Tex Kaur submitted
the attached Temporary Change Application TC-74- 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 no(s). 74-1554 & 74-1556 Part 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 new 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 condition. 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.

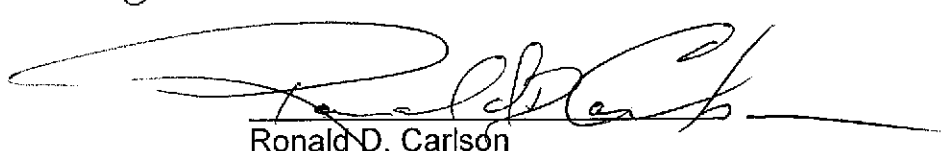
SUPPORT DATA

ORDER AUTHORIZING
TEMPORARY CHANGE

TC-74-11

5. Right(s) 74-1554 & 74-1556 Part are limited to the irrigation of a total of 132 acres in a single irrigation season
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 approval 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 applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
11. The Water master of Water District No. 74 is authorized to administer the temporary change approval.
12. This Temporary change approval expires on October 31, 2005 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 August, 2005.


Ronald D. Carlson
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 McFarland Livestock Co. INC
40 Blair or Tex Kauer Phone (208) 768-2711
Post Office Address P.O. Box 50, Lemhi, Id 83465

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 Drought emergency move earlier
priority to cover any loss suffered on place of use for flood irrigation and
data losses
Changing P/D from L-46A TO L-52 & L-48 water right 74-1556
Changing P/D from L-45C TO L-48 for water right 74-1554

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
PART	74-1556	3/21/1889	1.30 cfs	IRRIGATION	4/15 to 10/15
	74-1554	5/27/1890	0.95 cfs	IRRIGATION	3/15 to 11/15
					to
					to

2. Total amount of water being transferred 2.25 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
			NE	NE	25	17N	24E	Lemhi	Div L-48

5. Lands irrigated or place of use: Limited to 43.4 ac (74-1556) and 32 ac (74-1554) = 75.4 ac ^{Total of}

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	5	29	19	37	3								31	8			132

Total Acres 132

6. General Information:

TC-74-11

- a. Who owns the water right to be changed? APPLICANTS
- b. Describe the arrangement allowing use of the right APPLICANTS FILED TEMPORARY CHANGE
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
will not be irrigated
- d. Has the water right sought to be transferred been used this year? Yes If yes, explain used to irrigate original place of use
- e. Absent the changes, how would the right be used for the remainder of the year? Will continue to be used if temp change is not approved
- f. Describe other water rights used for the same purpose.
74-1544, 74-1556 (PART) 74-1565
- g. Remarks: 74-1556 (P/O L-46A) split by two Temp. Change Applications Water to be diverted from L-52 (3.70 cfs/123 ac) and L-48 (1.30 cfs/43.4 ac)

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.

Lex J. Kauer
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by KCW Date 7/27/05 Fee 50⁰⁰

Receipted KCW # E031097 Recommend: approve deny

Watermaster recommendation Recommended

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. TC-74-10

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

Witness my hand this 2nd day of August, 2005.

[Signature]
For the Director

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

RECEIVED

AUG - 6 2003

Department of Water Resources

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT 74-1556 (PART) 74-1554)
McFarland Livestock Co INC % Tex Kauer)

ORDER AUTHORIZING
TEMPORARY CHANGE TC- 74-02

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 counties; 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 purpose of use for valid existing 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 7/29/03, McFarland Livestock Co INC
% Tex Kauer submitted the attached
Temporary Change Application TC-74-02 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 no(s). 74-1556 (PART)
74-1554 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 new 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

ORDER AUTHORIZING
TEMPORARY CHANGE TC-74-02

replacement water supply to lands or other uses which normally have a full water supply, except for the drought condition. 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.

- 74-1556 (Part)
74-1554
5. Right(s) 74-1554 are limited to the irrigation of a total of 132 acres in a single irrigation season.
 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 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.
 8. This temporary change approval 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 10/31/03 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 30th day of July, 2003.


RONALD D. CARLSON
EASTERN REGION MANAGER

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TEMPORARY CHANGE APPLICATION

RECEIVED

AUG - 6 2003

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

Name of Applicant McFarland Livestock Co. INC Phone (208) 768-2718
C/O Blair or Tex Kauer
Post Office Address P.O. Box 50, Lemhi, Id 83465

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 Drought emergency move earlier
priority to cover any loss suffered on place of use for flood irrigation and
drawal losses

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

	Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
PART	74-1556	3/21/1889	1.30 cfs	IRRIGATION	4/15 to 10/15
	74-1554	5/27/1890	0.95 cfs	IRRIGATION	3/15 to 11/15
					to
					to

2. Total amount of water being transferred 2.25 cfs cubic feet per second and/or 1.30 cfs 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
			NE	NE	25	17N	24E	Lemhi	Div L-48

5. Lands irrigated or place of use: Limited to 43.4 ac (74-1556) and 32 ac (74-1554) = 75.4 ac ^{Total of}

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	5	29	19	37	3								31	8			132

Total Acres 132

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SEP 16 2003

6. General Information:

- a. Who owns the water right to be changed? APPLICANTS
- b. Describe the arrangement allowing use of the right APPLICANTS FILED TEMPORARY CHANGE
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
will not be irrigated
- d. Has the water right sought to be transferred been used this year? Yes If yes, explain used to irrigate original place of use
- e. Absent the changes, how would the right be used for the remainder of the year? Will continue to be used if temp change is not approved
- f. Describe other water rights used for the same purpose.
74-1544, 74-1556 (PART) 74-1565
- g. Remarks: A second temp change has been filed on 74-1556 (PART) for remainder of water right

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)

FOR DEPARTMENT USE ONLY

Received by Kew Date 7/29/30 Fee 50⁰⁰

Received Kew # E009047 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. _____

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

Witness my hand this 30th day of July, 2003.

[Signature]
For the Director

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SEP 10 2003

7C-74-02

State of Idaho
Department of Water Resources
Transfer of Water Rights

RECOMMENDATION OF WATERMASTER

Transfer Application No: _____

Water Right No(s):

29-1554

Transfer Applicant's Name:

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: In reviewing this transfer I see no reason to object to this as it appears to have the parties involved best interest addressed.

Dated this 29 day of July, 2003

Water District No: 34

Rich Sager
Watermaster's Signature

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SEP 16 2003

TC-74-02

State of Idaho
Department of Water Resources
Transfer of Water Rights

RECOMMENDATION OF WATERMASTER

Transfer Application No: _____

Water Right No(s):

74-1556

Transfer Applicant's Name:

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: In reviewing this transfer I see no reason to object to this as it appears to have the parties involved best interest addressed.

Dated this 29 day of July, 2003

Water District No: 34

Rich Lages
Watermaster's Signature

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SEP 1 8 2003

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APR 7 1985
Department of Water Resources
Western Regional Office

COPY

Filed in District Court Lemhi County,
Idaho, Jan 4 1983
at 2 minutes past 1 o'clock P.M.
Clerk
By *[Signature]* Deputy

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

IN THE MATTER OF THE GENERAL)
DETERMINATION OF THE RIGHT TO)
THE USE OF SURFACE WATERS AND)
TRIBUTARIES FROM WHATEVER)
SOURCE OF THE LEMHI RIVER)
DRAINAGE BASIN.)

CIVIL NO. 4948

PARTIAL DECREE PURSUANT
TO RULE 54(b), I.R.C.P.

The report of the Idaho Department of Water Resources ("Water Resources" herein) entitled PROPOSED FINDING OF WATER RIGHTS IN THE LEMHI RIVER BASIN was filed with this court on July 9, 1974. The report contains FINDINGS OF FACT, CONCLUSIONS OF LAW, and a LISTING OF WATER RIGHTS.

As a result of objections filed to the PROPOSED FINDINGS, changes were made to the Findings of Fact, Conclusions of Law, and the Listing of Water Rights. These amendments, additions, and deletions to the PROPOSED FINDINGS are set forth in two documents already on file with the court: (1) the "Special Master's Report on Specific Objections," filed April 7, 1982 and adopted by order on September 16, 1982; and (2) the "Stipulation Resolving General Objections" filed February 12, 1982. A third document, "Order Correcting Clerical Oversights in Proposed Finding of Water Rights," filed November 16, 1982, corrects typographical errors in the PROPOSED FINDINGS. Finally, permits listed in the PROPOSED FINDINGS which have become licensed on or before the date of this partial decree will be decreed in their licensed form.

This partial decree does not include any of the rights on Geertson Creek and its tributaries because they were already the subject of a partial decree which is on appeal to the Idaho Supreme Court. The rights of the United States Department of Agriculture, Forest Service, are also not included because they

PARTIAL DECREE, Page 1

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SEP 18 2003

MAR 26 1987

JUL 30 1996

have yet to be resubmitted following the decision of U.S. v. New Mexico.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the water rights of the Lemhi River Basin with the exceptions noted above are as described in the PROPOSED FINDING OF WATER RIGHTS IN THE LEMHI RIVER BASIN, as amended by:

1. Special Master's Report on Specific Objections;
2. Stipulation Resolving General Objections;
3. Order Correcting Clerical Oversights in Proposed Finding of Water Rights; and
4. Licenses issued on or before the date of this partial decree for permits listed in the PROPOSED FINDINGS;

all of which are incorporated herein by reference.

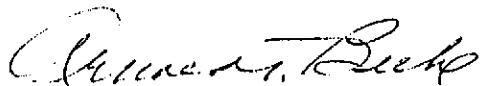
DATED this 30th day of December, 1982.


ARNOLD T. BEEBE
District Judge

Rule 54(b) Certificate

With respect to the issues determined by the above judgment 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 decree and that the court has and does hereby direct that the above partial decree shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATED this 30th day of December, 1982.


ARNOLD T. BEEBE
District Judge

MICROFILMED

STATE OF IDAHO
COUNTY OF LEMHI

NO. 175352

This instrument was filed for record at the request of
Dept. of Water Resources

on 11:10 A.M. April 3, 1985

and duly filed and indexed in the file of

JUDGMENTS Records of Lemhi County,

Idaho.

Alberta Wiederrick

Ex-Officio Recorder

None JUL 3 0 1986

PARTIAL DECREE, Page 2

Return to: Josephine Beeman,
Deputy Attorney General
Dept. of Water Resources
Statehouse
Boise, Idaho 83720