

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

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHTS 34-869 AND 34-871)

**ORDER AUTHORIZING
TEMPORARY CHANGE
TC-34-247**

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 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 15, 2026, Big Lost Ranch LLC submitted the attached temporary change application to the Department; and

WHEREAS water rights 34-869 and 34-871 share a 160-acre combined place of use, with water right 34-871 limited to 80 acres within the 160-acre place of use; and

WHEREAS diversion records for Water District 34 confirm that water rights 34-869 and 34-871 were not diverted at the authorized point of diversion for the rights or used at the authorized place of use for the rights between 2016 and 2024, and instead were used in combination with water rights 34-870 and 34-4137 to augment the water supply for the place of use for those rights; and

WHEREAS the Department has determined that any forfeiture concerns related to water rights 34-869 and 34-871 are overcome by recognizing the historical combined use of water rights 34-869, 34-871, 34-870 and 34-4137 at the authorized place of use for water rights 34-870 and 34-4137; 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 rights 34-869 and 34-871 is authorized only at the point(s) 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.
5. Right 34-871 is limited to the irrigation of 80 acres within the place of use authorized by this temporary change.
6. Right 34-869, 34-870, 34-871 and 34-4137 when combined shall not exceed a total diversion rate of 5.43 cfs, a total annual maximum diversion volume of 770 acre-feet, and the irrigation of 220 acres.
7. 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.
8. 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.
9. 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.
10. The Watermaster of Water District No. 34 is authorized to administer the temporary change approval.
11. This temporary change approval becomes effective on the date of signature and expires on November 1, 2026, 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 28th day of May, 2026.


Blake Jordan
Water Resources Program Manager

RECEIVED

May 15, 2026

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TC-34-247

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 Big Lost Ranch Compnay LLC

Phone 208-390-5306

Mailing Address 5306 Zollinger Rd, Mackay, ID 83251

Email Gregory_Jim@yahoo.co

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. _____

Drought requires moving old water right to place of greatest need.

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

1. <u>Right Number</u>	<u>Priority</u>	<u>Amount</u> (cfs/ac-ft)	<u>Nature of Use</u>	<u>Period of Use</u>
<u>34-871</u>	<u>06/01/1885</u>	<u>1.6</u>	<u>Irrigation</u>	<u>5/01</u> to <u>10/15</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 1.6 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Warm Springs Creek tributary to Warm Springs Creek

4. Point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
7N	23E	6		NE	NE		Custer	Warm Springs Creek	737
7N	23E	5		SW	NW		Custer	Springs	305
7N	23E	6		NE	NE		Custer	Warm Springs Creek	909

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	23E	6	8	29	39	12	28			36	3				1	4			160

Total Acres 160

6. General Information:

- a. Who owns the water right to be changed? GATES TRUSTEE, MARK T
- b. Describe the arrangement allowing use of the right. Water right will still be used on the Big Lost Ranch Company lands which are owned by Mark Gates
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Water will not be diverted to land from which water is transfered.
- 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? Yes
- f. Describe other water rights used for the same purpose. 34-00867, 34-00869 AND 34-10801
- g. Remarks: USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW will continue to be LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 7.94 CFS. COMBINED RIGHT NOS.: 34-00867, 34-00869 AND 34-10801

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.

Jim Gregory
Signature of Applicant

13 May 2026
Date

FOR DEPARTMENT USE ONLY

Received by _____ Date 5/19/26 \$50 fee received by K. Weston Receipt No. C126330
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:

Temporary Change Expiration Date _____

Signed this _____ day of _____

For the Director



Office of the secretary of state, Phil McGrane
ANNUAL REPORT

For Office Use Only

-FILED-

Date Filed: 10/13/2025 9:16:28 AM

DLUC-12030 1U/13/2023 3:10 AM RECEIVED BY OFFICE OF THE RADIO SPECTRUM

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

5/26/2026

Water Right 34-869

Owner Type
 Current Owner

Name and Address
 ELIZABETH W GATES TRUSTEE
 MARK T GATES TRUSTEE
 700 EMERSON ST
 PALO ALTO, CA 94301

Current Owner

WARD W WOODS
 PRISCILLA B WOODS
 C/O MARK T GATES 700 EMERSON ST
 PALO ALTO, CA 94301

Priority Date: 10/13/1914

Basis: Decreed

Status: Active

Source
 WARM SPRINGS CREEK

Tributary
 BIG LOST RIVER

Beneficial Use
 IRRIGATION

From
 5/01

To
 10/15

Diversion Rate
 1.600 CFS

Volume

Total Diversion 1.600 CFS

Source and Point(s) of Diversion:

WARM SPRINGS CREEK SWSE

Sec. 31, Twp 08N, Rge 23E, CUSTER County

Place of Use:

IRRIGATION within CUSTER County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	23E	5							30.0 L4										30.0
07N	23E	6	27.0 L1																27.0
08N	23E	31															35.0	39.0	74.0
08N	23E	32											29.0						29.0
POU Total Acres: 160.0																			

Conditions of Approval:

1. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE

Proof Report

- DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 7.94 CFS. COMBINED RIGHT NOS.: 34-00867, 34-00871 AND 34-10801
3. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 397 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-00867, 34-00871 AND 34-10801
4. C18 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. SECTION 42-1412(6), IDAHO CODE.
5. RIGHT NO. 34-00871 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
6. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
7. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

5/20/2026

Water Right 34-4137

Owner Type
Current Owner

Name and Address
WARD W WOODS
PRISCILLA B WOODS
C/O MARK T GATES 700 EMERSON ST
PALO ALTO, CA 94301

Current Owner

ELIZABETH W GATES TRUSTEE
MARK T GATES TRUSTEE
700 EMERSON ST
PALO ALTO, CA 94301

Priority Date: 3/16/1923

Basis: Decreed

Status: Active

Source
SPRING

Tributary
WARM SPRINGS CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	5/01	10/15	2.010 CFS	
STOCKWATER	1/01	12/31	0.190 CFS	
	<u>Total Diversion</u>		2.200 CFS	

Source and Point(s) of Diversion:

SPRING	NWSWNW	Sec. 5, Twp 07N, Rge 23E, CUSTER County
SPRING	SWSWNW	Sec. 5, Twp 07N, Rge 23E, CUSTER County

Place Of Use:

IRRIGATION within CUSTER County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	23E	5							13.0 L4	40.0									53.0
07N	23E	6	7.0 L1		3.5	37.0													47.5
																			POU Total Acres: 100.5

STOCKWATER Same as IRRIGATION

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

5/20/2026

Conditions of Approval:

1. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.
2. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
3. USE OF THIS RIGHT WITH RIGHT NO. 34-00870 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 5.43 CFS.
4. USE OF THIS RIGHT WITH RIGHT NO. 34-00870 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 220 ACRES IN A SINGLE IRRIGATION SEASON.
5. C18 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. SECTION 42-1412(6), IDAHO CODE.
6. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
7. STOCKWATER, 800 CATTLE, CALVES AND HORSES

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

5/20/2026

Water Right 34-871

Owner Type
 Current Owner

Name and Address
 WARD W WOODS
 PRISCILLA B WOODS
 C/O MARK T GATES
 700 EMERSON ST
 PALO ALTO, CA 94301

Current Owner

ELIZABETH W GATES TRUSTEE
 MARK T GATES TRUSTEE
 700 EMERSON ST
 PALO ALTO, CA 94301

Priority Date: 6/1/1885

Basis: Decreed

Status: Active

Source
 WARM SPRINGS CREEK

Tributary
 BIG LOST RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	5/01	10/15	1.600 CFS	
STOCKWATER	1/01	12/31	0.020 CFS	
	<u>Total Diversion</u>		1.600 CFS	

Source and Point(s) of Diversion:

WARM SPRINGS CREEK SWSE Sec. 31, Twp 08N, Rge 23E, CUSTER County

Place Of Use:

IRRIGATION within CUSTER County

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07N	23E	5							30.0 L4										30.0
07N	23E	6	27.0 L1																27.0
08N	23E	31															35.0	39.0	74.0
08N	23E	32											29.0						29.0
																			Right Acre Limit: 80.00 POU Total Acres: 160.0

STOCKWATER Same as IRRIGATION

Proof Report

Conditions of Approval:

1. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.
2. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 7.94 CFS. COMBINED RIGHT NOS.: 34-00867, 34-00869 AND 34-10801
3. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
4. N15 THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.
5. USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 397 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 34-00867, 34-00869 AND 34-10801 THIS RIGHT IS LIMITED TO THE IRRIGATION OF 80 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
6. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
7. C18 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. SECTION 42-1412(6), IDAHO CODE.
8. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
9. RIGHT NO. 34-00869 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE. STOCKWATER 800 CATTLE AND HORSES
10. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

5/20/2026

Water Right 34-870

Owner Type
Current Owner

Name and Address
ELIZABETH W GATES TRUSTEE
MARK T GATES TRUSTEE
700 EMERSON ST
PALO ALTO, CA 94301

Current Owner

WARD W WOODS
PRISCILLA B WOODS
C/O MARK T GATES 700 EMERSON ST
PALO ALTO, CA 94301

Priority Date: 6/1/1893

Basis: Decreed

Status: Active

Source
WARM SPRINGS CREEK

Tributary
BIG LOST RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	05/01	10/15	3.460 CFS	605.5 AF
STOCKWATER	01/01	12/31	0.020 CFS	7.9 AF
	<u>Total Diversion</u>		3.460 CFS	613.4 AF

Source and Point(s) of Diversion:

WARM SPRINGS CREEK	SWSE	Sec. 31, Twp 08N, Rge 23E, CUSTER County
WARM SPRINGS CREEK	SWNESE	Sec. 34, Twp 08N, Rge 22E, CUSTER County

Place Of Use:

IRRIGATION within CUSTER County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07N	23E	5							13.0 L4	40.0									53.0
07N	23E	6	8.0 L1	36.0 L2	40.0	38.0					40.0	5.0							167.0

Right Acre Limit: 173.00
POU Total Acres: 220.0

STOCKWATER Same as IRRIGATION

Conditions of Approval:

1. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

5/20/2026

2. S34 THE PERIOD OF USE FOR IRRIGATION DESCRIBED ABOVE MAY BE EXTENDED IN SEASONS OF UNUSUAL CHARACTERISTICS TO A BEGINNING DATE OF 04-20 AND AN ENDING DATE OF 10-31 AT THE DISCRETION OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.
3. The maximum authorized rate of diversion under this right at the new point of diversion when combined with water right no. 34-4137 shall not exceed 4.4 cfs nor a volume of more than 3.5 acre-feet per acre annually at the field headgate.
4. The watermaster shall regulate diversion of water at the new point of diversion in the SWSE Section 31, T8N, R23E, B.M. so that the diversion does not exceed the amount of the water right discharged to Warm Springs Creek from the unnamed natural channel at its confluence with Warm Springs Creek in the NWNW Section 36, T8N, R22E, B.M.
5. X27 This right is limited to the irrigation of 173 acres within the 220-acre place of use in a given irrigation season.
6. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
7. X35 Use of this right together with right no. 34-4137 is limited to the irrigation of a combined total of 220 acres in a given irrigation season.
8. The maximum authorized rate of diversion for water right no. 34-870 at the new point of diversion located in the SWSW Section 31, T8N, R23E, B.M. shall not exceed 2.72 cfs.
9. The point of diversion for the 0.74 cfs of water right no. 34-870 to be delivered to the Canal shall remain at the original point of diversion of the right in the NESE Section 34, T8N, R22E, B.M.
10. The water right holder shall permanently leave 0.74 cfs of water right no. 34-870 in the Upper Fish Hatchery Canal to provide for historic losses associated with delivery of the water right through the Canal to the Gates weir thereby preventing injury to the remaining water rights delivered through the Canal.
11. 01J Prior to diversion of water under this right, the right holder shall install and maintain a measuring device at the new point of diversion to provide the watermaster suitable control of the diversion.
12. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
13. N15 THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.
14. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
15. C18 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. SECTION 42-1412(6), IDAHO CODE.
16. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.