

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11766, Umatilla County) TEMPORARY CHANGE IN PLACE OF
) USE

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of appropriation authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

FEWEL FARMS LLC
C/O JOSH FEWEL
64302 W COATS ROAD
PROSSER, WA 99350

Findings of Fact

1. On March 21, 2014, FEWEL FARMS LLC. C/O JOSH FEWEL filed an application to temporarily change the place of use under Certificate 60744 for a period of TWO years. The Department assigned the application number T-11766.
2. Notice of the application for transfer was published on April 8, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 14, 2014, the Department spoke with the applicant notifying them of deficiencies in the application. This was followed by written correspondence in which the Department requested that the deficiencies be resolved by May 15, 2014. On April 22, 2014, the Department received the revised documents. The amended application also shows the applicant now has an agent, Bill Porfily.
4. On April 23, 2014, the Department notified the applicant's agent and the applicant of a deficiency on the revised application and a missing required document, Affidavit of Consent. On April 23, and June 23, 2014, the applicant submitted an amended application and the additional documentation required to resolve the deficiencies.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

5. Water use from wells in Critical Groundwater Areas are subject to allocation under OAR Chapter 690, Division 507, Certificate 60744 is within the Stage Gulch Critical Ground Water Area, and therefore subject to allocation.

6. The portion of the right to be transferred is as follows:

Certificate: 60744 in the name of HAROLD AND ESTHER LEHMAN (perfected under Permit G-10200)
Use: IRRIGATING 7.7 ACRES
Priority Date: JULY 14, 1983
Rate: 0.10 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL in the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	29 E	WM	30	NW NE	260 FEET SOUTH AND 2100 FEET WEST FROM THE NE CORNER OF SECTION 30

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	29 E	WM	30	NW NE	7.7

7. Temporary Transfer Application T-11766 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	29 E	WM	30	NW NE	7.7

Temporary Transfer Review Criteria

- 8. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
- 10. The proposed change would not result in enlargement of the right.

11. The proposed change would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(5) if the Department later finds that the transfer is causing injury to any existing water right.

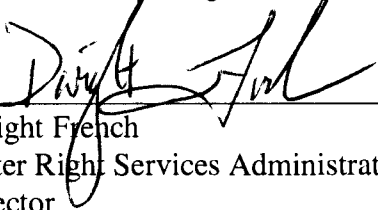
Conclusions of Law

The temporary change in place of use proposed in Temporary Transfer Application T-11766 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary change in place of use proposed in Temporary Transfer Application T-11766 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2014 and 2015 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2015 irrigation season.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
5. A subsequent application for permanent transfer of Certificate 60744 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
6. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 60744, any related decree, order, or agreement.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
8. The use of the remaining water right described by Certificate 60744 shall continue to be in accordance with the terms and conditions of Certificate 60744 and any related Order.

Dated at Salem, Oregon this 3 day of July, 2014.



Dwight French
Water Right Services Administrator, for
Director
Oregon Water Resources Department

Mailing Date: Jul 15 2014