# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-12854, Crook County	)	TEMPORARY CHANGE IN PLACE OF
	)	USE

#### Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

## **Applicant**

Mt. Jefferson Farms Inc. P.O. Box 12708 Salem, OR. 97309

# **Findings of Fact**

- 1. On February 23, 2018, Mt. Jefferson Farms, Inc. filed an application to temporarily change the place of use under Certificates 84125 and 89383 for a period of five years. The Department assigned the application number T-12584.
- 2. Notice of the application for transfer was published on March 6, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

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.

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

Certificate: 84125 in the name of TY FEHRENBACHER (perfected under Permit

G-11774)

Use: SUPPLEMENTAL IRRIGATION OF 54.1 ACRES

**Priority Date:** DECEMBER 30, 1991 **Rate:** 251.17 gallons per minute

Limit/Duty: The amount of water used for irrigation, together with the amount secured

under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, 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.

Period of Use: February 1 to December 1

**Source:** THREE WELLS within the LONE PINE CREEK BASIN

## **Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	14 E	WM	17	NE NW	WELL 1- 860 FEET SOUTH AND 3580 FEET WEST FROM THE NE CORNER OF SECTION 17
14 S	14 E	WM	17	SE NE	WELL 4- 2170 FEET SOUTH AND 290 FEET WEST FROM THE NE CORNER OF SECTION 17
14 S	14 E	WM	17	NE NE	WELL 5- 60 FEET SOUTH AND 190 FEET WEST FROM THE NE CORNER OF SECTION 17

#### **Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	14 E	WM	17	SW NE	11.8
14 S	14 E	WM	17	SWNW	16.4
14 S	14 E	WM	17	SE NW	18.1
14 S	14 E	WM	17	NE SW	2.3
14 S	14 E	WM	17	NW SW	5.5
				Total	54.1

4. Temporary Transfer Application T-12854 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	14 E	WM	17	SW NE	23.6
14 S	14 E	WM	17	NE SW	14.7
14 S	14 E	WM	17	SE SW	10.6
14 S	14 E	WM	17	SE SE	5.2

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

Certificate: 89383 in the name of MOUNT JEFFERSON FARMS INC - WALTER R.

> MILLER; THE DUNN FAMILY COMMUNITY PROPERTY TRUST, ROBERT AND THERESA DUNN, TRUSTEES (perfected under Permit

G-11774)

Use:

SUPPLEMENTAL IRRIGATION OF 57.4 ACRES

Priority Date: DECEMBER 30, 1991

Rate:

236.75 gallons per minute

Limit/Duty:

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, 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.

Period of Use: February 1 to December 1

Source:

THREE WELLS within the LONE PINE CREEK BASIN

# **Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	14 E	WM	17	NE NW	WELL 1- 860 FEET SOUTH AND 3660 FEET WEST FROM THE NE CORNER OF SECTION 17
14 S	14 E	WM	17	SE NE	WELL 4- 2155 FEET SOUTH AND 260 FEET WEST FROM THE NE CORNER OF SECTION 17
14 S	14 E	WM	17	NE NE	WELL 5- 30 FEET SOUTH AND 150 FEET WEST FROM THE NE CORNER OF SECTION 17

#### **Authorized Place of Use:**

	SUPPLE	MENTA	L IRR	IGATION	
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	14 E	WM	17	NE NE	20.00
14 S	14 E	WM	17	SE NE	28.70
14 S	14 E	WM	17	NE SE	2.30
14 S	14 E	WM	17	NW SE	6.40
		•		Total:	57.4

Temporary Transfer Application T-12854 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	14 E	WM	17	NE NE	0.3
14 S	14 E	WM	17	NW NE	31.4
14 S	14 E	WM	17	SE NE	0.5
14 S	14 E	WM	17	NE NW	4.8
14 S	14 E	WM	17	NW SE	20.4
				Total:	57.4

Temporary Transfer Application T-12854 proposes to temporarily transfer water rights within the boundaries of Crook County Improvement District. The district was notified of the proposed temporary transfer and did not provide any comments.

# Temporary Transfer Review Criteria

- 8. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are 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 rights are present.
- 10. The proposed change would not result in enlargement of the rights.
- 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-12854 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

#### Now, therefore, it is ORDERED:

- 12. The temporary change in place of use proposed in Temporary Transfer Application T-12854 is approved.
- 13. The former place of use **shall not** be irrigated as part of these water rights during the 2018, 2019, 2020, 2021, and 2022 irrigation seasons.
- 14. The use shall revert to the authorized place of use at the end of the 2022 irrigation season.
- 15. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
- 16. A subsequent application for permanent transfer of Certificates 84125 and 89383 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.
- 17. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 84125 and 89383.
- 18. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.

19. The use of the remaining water rights described by Certificates 84125 and 89383 shall continue to be in accordance with the terms and conditions of Certificates 84125 84125 and 89383. APR 1 3 2018 Dated at Salem, Oregon

Dwight French, Water Right Services Administrator, for

Thomas M. Byler, Director

Oregon Water Resources Department

Mailing Date: \_\_\_\_\_ APR **1 6** 2018