

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11490, Marion County)	TEMPORARY CHANGE IN PLACE OF
)	USE AND ADDITIONAL POINT OF
)	APPROPRIATION

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

NUNHEMS USA, INC
1200 ANDERSON CORNER RD
PARMA, ID 83660

Findings of Fact

Background

1. On November 19, 2012, NUMHEMS USA. INC. filed an application to temporarily change the place of use and add a point of appropriation to serve the proposed place of use under Certificate 40090 for a period of five years. The Department assigned the application number T-11490.

2. The right to be temporarily transferred is as follows:

Certificate: 40090 in the name of DESSERT SEED CO. INC. (perfected under Permit G-3703)

Use: IRRIGATION OF 32.0 ACRES

Priority Date: MAY 29, 1967

Rate: 0.40 CUBIC FOOT PER SECOND

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.

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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WELL 1 within the LITTLE PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	2 W	WM	16	SW NE	67	WELL 1 - 2540 FEET NORTH AND 1000 FEET EAST FROM THE SW CORNER OF DLC 67

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	2 W	WM	16	SW NE	67	18.5
6 S	2 W	WM	16	SE NE	67	0.7
6 S	2 W	WM	16	NE NW	67	0.1
6 S	2 W	WM	16	SE NW	67	8.0
6 S	2 W	WM	16	NE SE	67	0.7
6 S	2 W	WM	16	NW SE	67	4.0
Total						32.0

3. Temporary Transfer Application T-11490 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	2 W	WM	16	SW NE	67	17.2
6 S	2 W	WM	16	SE NE	67	1.1
6 S	2 W	WM	16	NE NW	67	0.2
6 S	2 W	WM	16	SE NW	67	6.8
6 S	2 W	WM	16	NE SE	67	1.4
6 S	2 W	WM	16	NW SE	62	5.3
Total						32.0

4. An additional point of appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-11490 proposes to move the authorized point of appropriation approximately 700 feet northwest to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	2 W	WM	16	SE NW	67	WELL 2 - 2990 FEET NORTH AND 475 FEET EAST FROM THE SW CORNER OF DLC 67

5. Notice of the application for transfer was published on November 27, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

Temporary Transfer Review Criteria

6. 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.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
8. The proposed changes would not result in enlargement of the right.
9. The proposed changes 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.

Partial Cancellation of a Water Right

1. On November 19, 2012, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from Tracy Landry, Secretary of Numhems USA, Inc. The right to be cancelled is as follows:

Certificate: 40090 in the name of DESSERT SEED CO. INC. (perfected under Permit G-3703)

Use: IRRIGATION OF 4.4 ACRES

Priority Date: MAY 29, 1967

Rate: 0.055 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WELL 1 in the LITTLE PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	2 W	WM	16	SW NE	67	WELL 1 - 2540 FEET NORTH AND 1000 FEET EAST FROM THE SW CORNER OF DLC 67

Authorized Place of Use to be Cancelled:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	2 W	WM	16	SE NW	67	4.4

Conclusions of Law

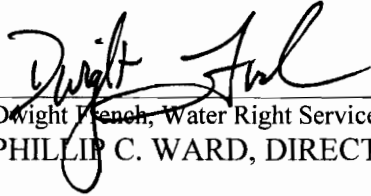
The temporary change in place of use and additional point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-11490 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000 and the abandoned right is cancelled.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and additional point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-11490 are approved. The portion of the right that has been abandoned is cancelled.
2. Water right certificate 40090 is cancelled. Certificate 87927 is issued to describe that portion of the right not affected by the cancellation.
3. The former place of use **shall not** be irrigated as part of this water right during the 2013, 2014, 2015, 2016 and 2017 irrigation seasons.
4. The use shall revert to the authorized place of use at the end of the 2017 irrigation season. The authorization to use the temporary point of appropriation shall be terminated concurrently.
5. The approval of this temporary transfer may be revoked or modified if the Department finds that the changes cause injury to any existing water right.
6. A subsequent application for permanent transfer of Certificate 87927 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.
7. 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 87927.
8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
9. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

10. The use of the remaining water right described by Certificate 87927 shall continue to be in accordance with the terms and conditions of Certificate 87927.

Dated at Salem, Oregon this 13 day of February 2013.



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing Date: FEB 14 2013