

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

In the Matter of Transfer Application)
T-14264, Marion County)
)
)
)
)

FINAL ORDER
APPROVING A CHANGE FROM SURFACE
WATER POINTS OF DIVERSION TO A
GROUNDWATER POINT OF
APPROPRIATION

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

SUN-RAY FARMS
PO BOX 100
INDEPENDENCE, OR 97351

Findings of Fact

1. On June 9, 2023, SUN RAY FARMS filed an application to change surface water points of diversion to a groundwater point of appropriation under Certificates 44215, 83391 and 85864. The Department assigned the application number T-14264.
2. Notice of the application for transfer was published on June 13, 2023, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 7, 2024, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14264 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 8, 2024, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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.

4. On March 1, 2024, the Department issued a Preliminary Determination proposing to approve Transfer Application T-14264 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on March 5, 2024, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

5. The first right to be transferred is as follows:

Certificate: 44215 in the name of H S K INCORPORATED (perfected under Permit S-34779)

Use: IRRIGATION OF 69.8 ACRES

Priority Date: NOVEMBER 21, 1969

Rate: 0.87 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year; and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: WILLAMETTE RIVER, tributary of COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
8 S	4 W	WM	28	NE NE	7	POD 1 - 620 FEET SOUTH AND 2610 FEET WEST FROM THE NE CORNER OF THE NW1/4 NW1/4 IN SECTION 27

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
8 S	4 W	WM	27	NW NW		40.0
8 S	4 W	WM	28	NE NE	7	29.8
TOTAL						69.8

6. Transfer Application T-14264 proposes to change from a surface water point of diversion to a groundwater point of appropriation approximately 350.0 feet east as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	4 W	WM	28	NE NE	WELL A - 530 FEET SOUTH AND 1030 FEET WEST FROM THE NE CORNER OF SECTION 28

7. The second right to be transferred is as follows:

Certificate: 83391 in the name of SUN RAY FARMS (perfected under Permit S-50043)

Use: IRRIGATION OF 6.1 ACRES AND SUPPLEMENTAL IRRIGATION OF 34.9 ACRES

Priority Date: JUNE 16, 1987

Rate: 0.51 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, 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year, provided further that although declared herein to be for supplemental water supplies, be exercised at times when water is available in the ground water supply provided that the total quantity diverted from all sources of supply does not exceed the limitation allowed herein.

Source: WILLAMETTE RIVER, tributary to COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
8 S	4 W	WM	28	NE NE	7	POD 2 - 620 FEET SOUTH AND 1310 FEET WEST FROM THE NE CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
8 S	4 W	WM	21	NE SE	63	1.8
8 S	4 W	WM	22	NW SW	63	4.3
TOTAL						6.1

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
8 S	4 W	WM	21	NE SE	63	6.3
8 S	4 W	WM	22	NW SW	63	23.0
8 S	4 W	WM	22	SW SW	63	5.6
TOTAL						34.9

8. Transfer Application T-14264 proposes to change the surface water point of diversion to a groundwater point of appropriation approximately 350.0 feet east as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	4 W	WM	28	NE NE	WELL A - 530 FEET SOUTH AND 1030 FEET WEST FROM THE NE CORNER OF SECTION 28

9. The third right to be transferred is as follows:

Certificate: 85864 in the name of SUN RAY FARMS (perfected under Permit S-41803)

Use: SUPPLEMENTAL IRRIGATION of 160.0 ACRES

Priority Date: FEBRUARY 28, 1977

Rate: 1.50 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated from direct flow, 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 from direct flow and storage from reservoirs constructed under Permits R-1625 and R-5363, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein, and is subject to the terms and conditions of contract No. 7-07-10-W0026, or a satisfactory replacement, between the Bureau of Reclamation and the applicant, a copy of which is on file with the records of Water Resources Department.

Source: WILLAMETTE RIVER and WILLAMETTE BASIN PROJECT RESERVOIRS, constructed under PERMITS R-1625 and R-5363, tributaries to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
8 S	4 W	WM	28	NE NE	7	POD 2 - 620 FEET SOUTH AND 1310 FEET WEST FROM THE NE CORNER OF SECTION 28

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
8 S	4 W	WM	21	NE SE		63	4.0
8 S	4 W	WM	21	SE SE		63	23.0
8 S	4 W	WM	22	NE SW		63	0.5
8 S	4 W	WM	22	NW SW		63	11.0
8 S	4 W	WM	22	SW SW		63	34.4
8 S	4 W	WM	27	NW NW			10.0
8 S	4 W	WM	27	SW NW			40.0
8 S	4 W	WM	28	NE NE	7		29.8
8 S	4 W	WM	28	SE NE	6		7.3
TOTAL							160.0

10. Transfer Application T-14264 proposes to change from a surface water point of diversion to a groundwater point of appropriation approximately 350.0 feet east as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	4 W	WM	28	NE NE	WELL A - 530 FEET SOUTH AND 1030 FEET WEST FROM THE NE CORNER OF SECTION 28

Transfer Review Criteria [OAR 690-380-0100(14), 690-380-2130 and 690-380-4010(2)]

11. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
12. A water delivery system sufficient to use the full amount of water allowed under the existing rights was present within the five-year period prior to submittal of Transfer Application T-14264.

13. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
14. The proposed point of appropriation meets the requirements of ORS 540.531 and OAR 690-380-2130(2).
15. The proposed changes, as conditioned, would not result in enlargement of the rights.
16. The proposed changes, as conditioned, would not result in injury to other existing water rights.
17. All other application requirements are met.

Conclusion of Law

The change from surface water points of diversion to a groundwater point of appropriation proposed in Transfer Application T-14264 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-2130 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

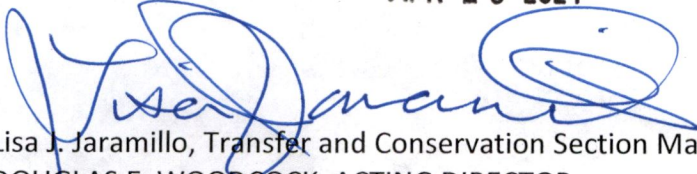
Now, therefore, it is ORDERED:

1. The change from surface water points of diversion to a groundwater point of appropriation proposed in Transfer Application T-14264 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 44215, 83391 and 85864 and any related decree.
3. Approval of this transfer application does not constitute nor grant legal access onto or through another person's property for purposes of accessing the new point of appropriation.
4. Water right Certificates 44215, 83391 and 85864 are cancelled.
5. The quantity of water diverted at the new point of appropriation (Well A) shall not exceed the quantity of water lawfully available at the original points of diversion (POD 1 and POD 2).
6. The well from which water is taken under the right shall be constructed so that the use of the well will affect the surface water source similarly to the use of the original authorized points of diversion.
7. The use of water under this right shall be subject to regulation consistent with other water rights from the surface water source and to all other applicable conditions and restrictions that existed at the original points of diversion.

8. All applicable restrictions that existed at the original points of diversion shall apply to the proposed well.
9. The original date of priority shall be retained. However, if within 5 years after approving this transfer, the Department finds that the transfer results in substantial or undue interference with an existing groundwater right due to use of the well, that would not have occurred in the absence of the transfer, the new point of appropriation shall be subordinate to the existing right injured by the transfer.
10. The original point of diversion of surface water shall not be retained as an additional or supplemental point of diversion under the transferred portion of the right. However, if within five years after approval of the transfer, the Department receives a transfer application to return to the last authorized surface water point of diversion, the application shall be approved.
11. 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 (new and existing).
 - 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.
12. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2025**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.

13. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on **APR 26 2024**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

Mailing Date: **APR 29 2024**