

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

In the Matter of Transfer Application) FINAL ORDER APPROVING AN
T-12037, Malheur County) EMERGENCY USE DROUGHT
) TEMPORARY CHANGE IN PLACES
) OF USE

Authority

Oregon Revised Statute (ORS) 536.750 establishes the process in which a water right holder may submit a request to temporarily transfer the use, place of use or point of diversion of water in the event of a declaration of drought, without complying with the notice and waiting requirements under ORS 540.520. Oregon Administrative Rule (OAR) Chapter 690, Division 019 implements the statutes and provides the Department's procedures and criteria for evaluating drought transfer applications.

Applicant

BOHLENDER COLORADO FARMS LLC
PO BOX 207
ONTARIO, OR 97914

Findings of Fact

1. On April 17, 2015, BOHLENDER COLORADO FARMS LLC filed an application to temporarily change the place of use under Certificates 85585, 84863, 84866, 84862 and 84867 for the remainder of the 2015 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-12037.
2. Notice of the application for transfer was published on April 21, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 24, 2015, the Department contacted the applicant's agent by written correspondence to notify them of the deficiencies in the application. The applicant's agent responded on April 27, 2015, resolving all deficiencies.
4. The portion of the first right to be temporarily transferred is as follows:
Certificate: 85585 in the name of LARSON LAND CO., LLC dba LARSON SKYLINE FARMS PARTNERSHIP (perfected under Permit S-33944)
Use: IRRIGATION of 48.3 ACRES
Priority Date: OCTOBER 25, 1968
Rate: 0.639 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

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.

1/75.61 of one cfs, 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: SNAKE RIVER within the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	10	NE SW	5.7
17 S	46 E	WM	10	NE SE	4.4
17 S	46 E	WM	10	NW SE	14.2
17 S	46 E	WM	10	SW SE	2.1
17 S	46 E	WM	11	NW NW	4.4
17 S	46 E	WM	11	NW SW	8.3
17 S	46 E	WM	21	SW NW	9.2
Total					48.3

5. Temporary Transfer Application T-12037 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	12	NE NW	14.0
17 S	46 E	WM	12	NE SW	24.2
17 S	46 E	WM	12	NW SW	10.1
Total					48.3

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

Certificate: 84863 in the name of LARSON LAND CO., LLC dba LARSON SKYLINE FARMS PARTNERSHIP (perfected under Permit S-31231)

Use: IRRIGATION on 71.3 ACRES

Priority Date: JUNE 27, 1966

Rate: 0.943 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 1/75.61 of one cfs, 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: SNAKE RIVER within the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	22	SW SW	0.5
17 S	46 E	WM	22	SW SE	7.5
17 S	46 E	WM	23	SW SW	5.1
17 S	46 E	WM	23	SW SE	0.8
17 S	46 E	WM	26	NW NE	3.7
17 S	46 E	WM	26	SW NE	16.2
17 S	46 E	WM	26	NE NW	0.9
17 S	46 E	WM	26	NW NW	5.1
17 S	46 E	WM	26	SW NW	17.5
17 S	46 E	WM	26	SE NW	1.1
17 S	46 E	WM	27	NW NE	1.6
17 S	46 E	WM	27	SW NE	9.1
17 S	46 E	WM	27	SE NE	2.2
Total					71.3

7. Transfer Application T-12037 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	13	NW NE	1.4
17 S	46 E	WM	13	NE NW	30.2
17 S	46 E	WM	13	NW NW	6.0
17 S	46 E	WM	13	SW NW	30.3
17 S	46 E	WM	23	NW SE	3.4
Total					71.3

8. The portion of the third right to be temporarily transferred is as follows:

Certificate: 84866 in the name of LARSON LAND CO., LLC dba LARSON SKYLINE FARMS PARTNERSHIP (perfected under Permit S-33944)

Use: IRRIGATION of 189.9 ACRES

Priority Date: OCTOBER 25, 1968

Rate: 2.512 CUBIC FEET 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 1/75.61 of one cfs, 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.

Period of Use: March 1 to October 31

Source: SNAKE RIVER within the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	20	SE SE	8.3
17 S	46 E	WM	21	SW SW	5.8
17 S	46 E	WM	21	SE SW	35.6
17 S	46 E	WM	21	SW SE	12.5
17 S	46 E	WM	21	SE SE	13.6
17 S	46 E	WM	28	NE NE	19.4
17 S	46 E	WM	28	NW NE	6.5
17 S	46 E	WM	28	SW NE	4.2
17 S	46 E	WM	28	SE NE	6.5
17 S	46 E	WM	28	NE NW	16.8
17 S	46 E	WM	28	NW NW	9.7
17 S	46 E	WM	28	SE NW	5.8
17 S	46 E	WM	28	NE SW	7.7
17 S	46 E	WM	28	NW SW	5.6
17 S	46 E	WM	28	NE SE	8.9
17 S	46 E	WM	28	NW SE	2.4
17 S	46 E	WM	29	NE NE	5.6
17 S	46 E	WM	29	SE NE	8.5
17 S	46 E	WM	29	NE SE	6.5
					189.9

9. Temporary Transfer Application T-12037 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	20	NE SE	2.5
17 S	46 E	WM	20	SE SE	2.4
17 S	46 E	WM	21	SE NW	3.2
17 S	46 E	WM	21	NE SW	33.6
17 S	46 E	WM	21	NW SW	7.2
17 S	46 E	WM	21	SW SW	1.2
17 S	46 E	WM	21	SE SW	0.9
17 S	46 E	WM	26	NE SW	7.3
17 S	46 E	WM	26	NW SW	36.8
17 S	46 E	WM	26	SW SW	10.0
17 S	46 E	WM	26	SE SW	5.2
17 S	46 E	WM	27	NE SW	24.7
17 S	46 E	WM	27	NW SW	15.5
17 S	46 E	WM	27	NE SE	25.2
17 S	46 E	WM	27	NW SE	13.6
17 S	46 E	WM	28	NW NE	0.6
					189.9

10. The portion of the fourth right to be temporarily transferred is as follows:

Certificate: 84862 in the name of LARSON LAND CO., LLC dba LARSON SKYLINE FARMS PARTNERSHIP (perfected under Permit S-31231)

Use: IRRIGATION on 315.6 ACRES

Priority Date: JUNE 27, 1966

Rate: 4.174 CUBIC FEET 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 1/75.61 of one cfs, 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: SNAKE RIVER within the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	2	NE SW	3.4
17 S	46 E	WM	2	SE SW	5.8
17 S	46 E	WM	2	NW SE	2.0
17 S	46 E	WM	2	SW SE	1.2
17 S	46 E	WM	2	SE SE	1.9
17 S	46 E	WM	11	NE NE	0.2
17 S	46 E	WM	11	NW NE	12.0
17 S	46 E	WM	11	SW NE	10.2
17 S	46 E	WM	11	SE NE	9.8
17 S	46 E	WM	11	NE NW	6.0
17 S	46 E	WM	11	NE SW	5.3
17 S	46 E	WM	11	SW SW	6.9
17 S	46 E	WM	11	NE SE	3.4
17 S	46 E	WM	11	NW SE	6.8
17 S	46 E	WM	11	SW SE	5.1
17 S	46 E	WM	11	SE SE	9.6
17 S	46 E	WM	12	SW NE	7.2
17 S	46 E	WM	12	SW NW	9.4
17 S	46 E	WM	12	SE NW	5.7
17 S	46 E	WM	12	NW SW	2.0
17 S	46 E	WM	12	SW SW	0.2
17 S	46 E	WM	13	NW SW	9.6
17 S	46 E	WM	14	NW NE	12.9
17 S	46 E	WM	14	SW NE	7.2
17 S	46 E	WM	14	NE NW	0.2
17 S	46 E	WM	14	NW NW	6.2
17 S	46 E	WM	14	SE NW	1.9
17 S	46 E	WM	15	NE NE	5.4
17 S	46 E	WM	15	NW NE	9.5
17 S	46 E	WM	15	SW NE	7.2
17 S	46 E	WM	15	SE NE	7.4
17 S	46 E	WM	15	SW NW	1.2
17 S	46 E	WM	15	SE NW	1.0
17 S	46 E	WM	16	NE SW	13.2
17 S	46 E	WM	16	NW SW	4.7
17 S	46 E	WM	16	SW SW	7.0
17 S	46 E	WM	16	SE SW	3.0

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	16	NE SE	19.8
17 S	46 E	WM	16	NW SE	3.0
17 S	46 E	WM	16	SE SE	2.5
17 S	46 E	WM	17	SE SE	16.2
17 S	46 E	WM	21	NE NE	14.2
17 S	46 E	WM	21	NW NE	2.3
17 S	46 E	WM	21	SW NE	4.5
17 S	46 E	WM	21	SE NE	8.6
17 S	46 E	WM	21	NE NW	17.2
17 S	46 E	WM	21	SE NW	1.2
17 S	46 E	WM	21	NE SW	0.4
17 S	46 E	WM	21	NE SE	10.2
17 S	46 E	WM	21	NW SE	3.8
Total					315.6

11. Temporary Transfer Application T-12037 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	1	SW SW	26.6
17 S	46 E	WM	1	SE SW	15.7
17 S	46 E	WM	1	SW SE	6.0
17 S	46 E	WM	2	SW NW	4.1
17 S	46 E	WM	2	SE NW	9.8
17 S	46 E	WM	2	NE SW	17.9
17 S	46 E	WM	2	NW SW	13.1
17 S	46 E	WM	2	NE SE	3.3
17 S	46 E	WM	2	NW SE	6.0
17 S	46 E	WM	2	SE SE	10.6
17 S	46 E	WM	9	SW NE	11.2
17 S	46 E	WM	9	SE NE	31.5
17 S	46 E	WM	9	NE SE	11.1
17 S	46 E	WM	9	NW SE	1.0
17 S	46 E	WM	10	SW SW	18.5
17 S	46 E	WM	10	SE SW	1.3
17 S	46 E	WM	10	SW SE	5.6
17 S	46 E	WM	12	NW NE	21.6
17 S	46 E	WM	12	NE NW	15.2
17 S	46 E	WM	12	NW NW	18.5
17 S	46 E	WM	13	NW NE	4.3
17 S	46 E	WM	13	NW SW	0.7
17 S	46 E	WM	14	SE NW	0.3
17 S	46 E	WM	15	NE NW	15.9
17 S	46 E	WM	15	NW NW	14.7
17 S	46 E	WM	15	SE NW	2.1
17 S	46 E	WM	20	NE NE	15.4
17 S	46 E	WM	20	SE NE	6.2
17 S	46 E	WM	21	SW NW	7.4
Total					315.6

12. The portion of the fifth right to be temporarily transferred is as follows:

Certificate: 84867 in the name of LARSON LAND CO., LLC dba LARSON SKYLINE FARMS PARTNERSHIP (perfected under Permits S-31231, S-33944, S-33945 and S-33946)

Use: IRRIGATION of 373.9 ACRES

Priority Date: JUNE 27, 1966, and OCTOBER 25, 1968

Rate: 4.945 CUBIC FEET PER SECOND, being 1.455 cfs under the June 27, 1966 priority date and 3.490 cfs under the October 25, 1968 date.

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 1/75.61 of one cfs, 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: SNAKE RIVER within the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	47 E	WM	21	NE NW	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	4	SW SE	1.3
17 S	46 E	WM	9	NE NE	0.5
17 S	46 E	WM	9	NW NE	5.9
17 S	46 E	WM	9	NE NW	4.7
17 S	46 E	WM	9	NW NW	7.2
17 S	46 E	WM	10	NE NW	7.0
17 S	46 E	WM	10	NW NW	1.4
17 S	46 E	WM	10	SW NW	11.2
17 S	46 E	WM	10	SE NW	4.5
17 S	46 E	WM	10	NE SW	6.9
17 S	46 E	WM	10	NW SW	11.0
17 S	46 E	WM	10	SW SE	1.0
17 S	46 E	WM	15	NW NW	3.1
17 S	46 E	WM	15	SW NW	4.1
17 S	46 E	WM	16	NE NE	2.8
17 S	46 E	WM	16	SW NE	4.4
17 S	46 E	WM	16	SE NE	10.9
17 S	46 E	WM	16	NW NW	1.0
17 S	46 E	WM	16	SW NW	9.1
17 S	46 E	WM	16	SE NW	6.8
17 S	46 E	WM	17	NE NE	0.2
17 S	46 E	WM	17	NW NE	0.8
17 S	46 E	WM	17	SE NE	8.7
17 S	46 E	WM	26	SW SW	0.6
17 S	46 E	WM	27	SW SW	10.2
17 S	46 E	WM	27	SE SW	6.1
17 S	46 E	WM	27	SW SE	1.8
17 S	46 E	WM	28	NE SW	2.5

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	28	NW SW	1.2
17 S	46 E	WM	28	SW SW	2.7
17 S	46 E	WM	28	SE SW	4.2
17 S	46 E	WM	28	NE SE	5.0
17 S	46 E	WM	28	SE SE	8.1
17 S	46 E	WM	29	SE SE	12.0
17 S	46 E	WM	32	SE SE	4.1
17 S	46 E	WM	33	SW SW	16.4
17 S	46 E	WM	33	SE SW	7.1
17 S	46 E	WM	33	SW SE	9.4
17 S	46 E	WM	33	SE SE	10.9
17 S	46 E	WM	34	NW NE	14.3
17 S	46 E	WM	34	SW NE	9.6
17 S	46 E	WM	34	NE NW	10.4
17 S	46 E	WM	34	SE SW	1.4
17 S	46 E	WM	34	NE SE	10.9
17 S	46 E	WM	34	SW SE	5.7
17 S	46 E	WM	34	SE SE	8.1
17 S	46 E	WM	35	NW NW	7.5
17 S	46 E	WM	35	SW NW	1.5
17 S	46 E	WM	35	NW SW	12.5
18 S	46 E	WM	3	NE NE	9.1
18 S	46 E	WM	3	NW NE	1.0
18 S	46 E	WM	3	SW NE	10.7
18 S	46 E	WM	3	NW NW	10.0
18 S	46 E	WM	3	SW NW	4.3
18 S	46 E	WM	3	SE NW	12.0
18 S	46 E	WM	3	NE SW	0.9
18 S	46 E	WM	3	NW SW	7.8
18 S	46 E	WM	4	NE NE	10.4
18 S	46 E	WM	4	NW NE	4.5
18 S	46 E	WM	4	NE NW	4.5
Total					373.9

13. Temporary Transfer Application T-12037 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	3	SW SW	13.8
17 S	46 E	WM	4	SW SW	1.6
17 S	46 E	WM	4	SE SW	0.9
17 S	46 E	WM	4	SW SE	1.0
17 S	46 E	WM	4	SE SE	20.5
17 S	46 E	WM	9	SW NE	10.5
17 S	46 E	WM	16	NW NE	0.8
17 S	46 E	WM	16	SW NE	3.2
17 S	46 E	WM	16	SE NE	0.8
17 S	46 E	WM	16	NE NW	4.5
17 S	46 E	WM	16	NW NW	3.7
17 S	46 E	WM	17	NE NE	2.0
17 S	46 E	WM	17	NW NE	5.0

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	17	SW NE	0.6
17 S	46 E	WM	17	SE NE	2.0
17 S	46 E	WM	27	NW SW	1.8
17 S	46 E	WM	27	SE SE	4.3
17 S	46 E	WM	28	NE SW	1.4
17 S	46 E	WM	29	NW SE	0.3
17 S	46 E	WM	33	NE NE	25.7
17 S	46 E	WM	33	NW NE	24.7
17 S	46 E	WM	34	NW NW	29.2
17 S	46 E	WM	34	SW NW	16.5
17 S	46 E	WM	34	SE SW	12.0
17 S	46 E	WM	34	NE SE	0.8
17 S	46 E	WM	34	NW SE	9.1
17 S	46 E	WM	35	NW NW	0.3
17 S	46 E	WM	35	SW NW	1.0
18 S	46 E	WM	3	SE NW	0.6
18 S	46 E	WM	3	NE SW	1.7
18 S	46 E	WM	4	SW NE	35.5
18 S	46 E	WM	4	SE NE	36.7
18 S	46 E	WM	4	NW NW	18.5
18 S	46 E	WM	4	SE NW	18.3
18 S	46 E	WM	4	NE SW	26.8
18 S	46 E	WM	4	NE SE	12.8
18 S	46 E	WM	4	NW SE	25.0
					373.9

Temporary Drought Transfer Review Criteria

14. 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.
15. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
16. The Governor issued an executive order on March 16, 2015, declaring a state of drought emergency in Malheur County due to drought and extreme weather conditions, which is still in effect and the water right proposed for transfer is on lands included in the area covered by the drought order.
17. The proposed changes would not result in enlargement of the rights.
18. 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 OAR 690-019-055(3) if injury to existing water rights is shown and cannot be mitigated to the satisfaction of the Director and injured parties.

Conclusions of Law

The temporary change in places of use proposed in Temporary Drought Transfer Application T-12037 is consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

Now, therefore, it is ORDERED:

1. The temporary change in places of use proposed in Temporary Drought Transfer Application T-12037 is approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the remainder of the 2015 irrigation season or until the end of the Governor’s declared drought, whichever occurs first.
3. The approval of this temporary drought transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
4. The use of water at the temporary places of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 85585, 84863, 84866, 84862 and 84867. The use shall revert to the authorized place of use at the end of the 2015 irrigation season.
5. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
6. The proposed change in places of use shall revert to the authorized places of use at the end of the 2015 irrigation season or the end of the Governor’s declared drought, whichever occurs first.
7. The use of the remaining water rights described by Certificates 85585, 84863, 84866, 84862 and 84867 shall continue to be in accordance with the terms and conditions of Certificates 85585, 84863, 84866, 84862 and 84867.

Dated at Salem, Oregon this 9 day of June, 2015.



 Dwight French, Water Right Services Administrator, for
 Thomas M. Byler, Director
 Oregon Water Resources Department

Mailing Date: JUN 10 2015