

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-13396, Umatilla County) A TEMPORARY CHANGE IN
) PLACES OF USE

Authority

Oregon Revised Statute (ORS) 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 diversion 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

STANFIELD HUTTERIAN FARM
C/O HERB STAHL
36345 DESPAIN GULCH RD
STANFIELD, OR 97875

Findings of Fact

1. On March 13, 2020, STANFIELD HUTTERIAN FARM, filed an application to temporarily change the place of use under Certificates 55612 and 55015 for a period of 5 years. The Department assigned the application number T-133961.
2. Notice of the application for transfer was published on March 24, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On July 21, 2020, the agent for the applicant submitted a revised application to clarify the place of use and disposition of layered rights.
4. The application contains a statement from the agent for the applicant that the following rights which exist on the “FROM” and “TO” lands will not be exercised during the 2020, 2021, 2022, 2023 and 2024 irrigation seasons and has requested that the rights not be included as part of this temporary transfer: Permits S-54633, S-55061, S-55190, S-55192, S-55114, S-55262 and Certificates 54753, 83083 and 54753. Existing Permit S-54582 will continue to be used as supplemental irrigation to the incoming primary in Section 4, T2N, R28E, WM.

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

Certificate: 55612 in the name of GLENN L. ROHDE (perfected under Permit G-3495)
Use: IRRIGATION of 39.4 ACRES
Priority Date: OCTOBER 4, 1966
Rate: 0.21 CUBIC FOOT PER SECOND, if available at the original point of diversion in the NE¼ SE¼, Section 17, T3N, R30E, WM; 2650 feet South and 330 feet West from the NE Corner of Section 17.
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 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, a tributary of Umatilla River

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 N	30 E	WM	17	SE NE	2300 FEET SOUTH AND 250 FEET WEST FROM NE CORNER OF SECTION 17

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
3 N	30 E	WM	16	NW SW	2.8
3 N	30 E	WM	16	SW SW	33.6
3 N	30 E	WM	16	SE SW	3.0
TOTAL:					39.4

6. Temporary Transfer Application T-13396 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
3 N	30 E	WM	16	NE NE	26.9
3 N	30 E	WM	16	SE NE	12.5
TOTAL:					39.4

7. The "FROM" lands described in Findings of Facts #5 and proposed "TO" lands described in Findings of Facts #6 above are lands for which there IS NOT Planned Irrigation Activity during the 2020 irrigation season under in Permits S-55114, S-55262 and S-55263. Use of water under these permits are subject to the following annual use condition: If water from Permits S-55114, S-55262 and S-55263 are used for supplemental irrigation, then pre-existing primary rights for the same place of use cannot be transferred to another place or character of use.

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

Certificate: 55015 in the name of GLENN L. ROHDE (perfected under Permit G-7911)
Use: IRRIGATION of 154.5 ACRES
Priority Date: DECEMBER 6, 1977
Rate: 1.93 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 ONE-EIGHTIETH of one cubic foot per second 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, a tributary of Stage Gulch (Umatilla River basin)

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 N	30 E	WM	17	SE NE	2300 FEET SOUTH AND 250 FEET WEST FROM NE CORNER OF SECTION 17

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
3 N	30 E	WM	16	SW NE	22.9
3 N	30 E	WM	16	NE NW	14.1
3 N	30 E	WM	16	NW NW	3.7
3 N	30 E	WM	16	SW NW	16.7
3 N	30 E	WM	16	SE NW	39.2
3 N	30 E	WM	16	NE SW	18.8
3 N	30 E	WM	16	NW SW	0.3
3 N	30 E	WM	16	SE SW	0.6
3 N	30 E	WM	16	NW SE	22.4
3 N	30 E	WM	16	SW SE	1.2
3 N	30 E	WM	17	NE SE	10.9
3 N	30 E	WM	17	NW SE	3.7
TOTAL:					154.5

9. Temporary Transfer Application T-13396 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
3 N	30 E	WM	16	NW NE	10.3
3 N	30 E	WM	16	SW NE	19.6
3 N	30 E	WM	16	SE NE	14.6
3 N	30 E	WM	16	NE NW	31.5
3 N	30 E	WM	16	NW NW	9.1
3 N	30 E	WM	16	SW NW	18.6
3 N	30 E	WM	16	SE NW	40.0
3 N	30 E	WM	16	NE SW	9.4
3 N	30 E	WM	16	NW SW	0.6
3 N	30 E	WM	16	NW SE	0.8
TOTAL:					154.5

10. The "FROM" lands described in Findings of Facts #8 and proposed "TO" lands described in Findings of Facts #9 above are lands for which there is not Planned Irrigation Activity during the 2020 irrigation season under in Permits S-55114, S-55262 and S-55263. Use of water under these permits are subject to the following annual use condition: If water from Permits S-55114, S-55262 and S-55263 are used for supplemental irrigation, then pre-existing primary rights for the same place of use cannot be transferred to another place or character of use.

Temporary Transfer Review Criteria

11. 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.
12. A well and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
13. The proposed changes would not result in enlargement of the rights.
14. 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.

Conclusions of Law

The temporary changes in place of use proposed in Temporary Transfer Application T-13396 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

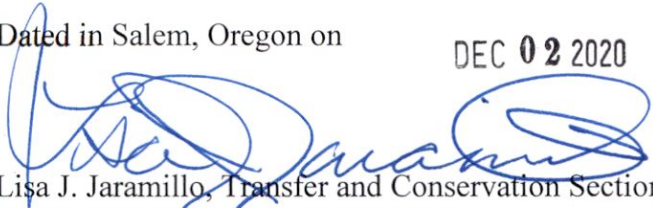
Now, therefore, it is ORDERED:

1. The temporary changes in place of use a proposed in Temporary Transfer Application T-13396 are approved.
2. The former places of use **shall not** be irrigated as part of this water right during the 2020, 2021, 2022, 2023 and 2024 irrigation seasons.
3. The proposed change in places of use shall revert to the authorized places of use at the end of the 2024 irrigation season.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificates 55162 and 55015 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 Certificates 55162 and 55015.
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 Certificates 55612 and 55015 shall continue to be in accordance with the terms and conditions of Certificates 55612 and 55015.

Dated in Salem, Oregon on

DEC 02 2020


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

Mailing Date: DEC 03 2020