

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING TEMPORARY
T-13609, Morrow and Umatilla Counties	)	CHANGES IN PLACE OF USE AND POINTS
	)	OF DIVERSION

**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**

FARMLAND RESERVE, INC.  
PO BOX 2308  
PASCO, WA 99302

**Findings of Fact**

1. On February 3, 2021, Farmland Reserve, Inc., filed an application to temporarily change the places of use under Certificates 87111, 92994, 93872, 95154, and 95955 for a period of five (5) years, being 2021 through 2025. The applicant also proposes to change certain points of appropriation to facilitate the change in places of use under Certificates 87111, 92994, and 93872. The Department assigned the application number T-13609.
2. Notice of the application for transfer was published on February 16, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 1, 2021, the applicant provided updated tables for Certificate 92994 to correct scrivener's errors, and provided further clarification to the transfer in an e-mail.
4. On March 5, 2021, the applicant submitted revised maps to correct scrivener's errors.

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. On March 30, 2021, and April 9, 2021, the applicant provided further clarification regarding the disposition of water rights layered with appurtenant lands involved in the transfer. Also, on April 9, 2021, 7.28 acres were removed from the transfer under Certificate 93872 in the SESE, Section 8, Township 2 North, Range 28 East, W.M..
6. Temporary Transfer Application T-13609 proposes to temporarily transfer a water right from within the boundaries of East Improvement District and Columbia District Improvement. The districts were notified of the proposed temporary transfer and indicated that the applicant has conferred with the districts about the proposed transfer and do not object to the transfer.
7. The portion of the first right to be temporarily transferred is as follows:

**Certificate:** 87111 issued in the name of HALE FARMS, LLC (perfected under Permit S-37121)

**Use:** PRIMARY IRRIGATION of 567.82 ACRES

**Priority Dates:** OCTOBER 3, 1973, plus one minute for 2.49 CUBIC FEET PER SECOND; and DECEMBER 11, 1973, plus one minute for 0.67 CUBIC FEET PER SECOND

**Rate:** 3.16 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-SIXTIETH 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. **The use of water on 567.82 ACRES in combination with the total quantity used on the remaining 1292.18 acres under this certificate is limited to a maximum of 10.36 cfs and a total duty of 1861.0 Acre-Feet during the term of T-13609.**

**Source:** The COLUMBIA RIVER, tributary of the PACIFIC OCEAN

**Authorized Point of Diversion**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	STAHL PUMP STATION: 2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8

**Authorized Place of Use:**

IRRIGATION FROM STAHL PUMP STATION							
Twp	Rng	Mer	Sec	G-Lot	Q-Q	Acres	TaxLot
3 N	29 E	WM	1	1	NE NE	15.06	300
3 N	29 E	WM	1		SE NE	15.10	300
3 N	29 E	WM	1	3	NE NW	4.75	100
3 N	29 E	WM	1	4	NW NW	38.70	100
3 N	29 E	WM	1		SW NW	33.44	100
3 N	29 E	WM	1		SE NW	1.54	100

IRRIGATION FROM STAHL PUMP STATION							
Twp	Rng	Mer	Sec	G-Lot	Q-Q	Acres	TaxLot
3 N	29 E	WM	1		NE SW	6.00	100
3 N	29 E	WM	1		NW SW	40.00	100
3 N	29 E	WM	1		SW SW	25.80	100
3 N	29 E	WM	1		SE SW	26.92	100
3 N	29 E	WM	2	1	NE NE	29.20	100
3 N	29 E	WM	2	2	NW NE	34.00	100
3 N	29 E	WM	2		SW NE	18.16	100
3 N	29 E	WM	2		SE NE	18.00	100
3 N	29 E	WM	2		NE SE	12.42	100
3 N	29 E	WM	2		SE SE	0.12	100
3 N	29 E	WM	11		NE NW	30.70	300
3 N	29 E	WM	11		NW NW	30.70	300
3 N	29 E	WM	11		SW NW	27.2	300
3 N	29 E	WM	11		SE NW	26.00	300
3 N	29 E	WM	12		NE NW	28.28	3600
3 N	29 E	WM	12		NW NW	16.41	300
3 N	30 E	WM	6	4	NW NW	44.70	300
3 N	30 E	WM	6	5	SW NW	44.62	300
<b>Total:</b>						<b>567.82</b>	

8. An additional point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13609 proposes to add an additional point of diversion approximately 50 feet downstream on the Columbia River at the location described below.

**Proposed Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	EID PUMP STATION: 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8

9. Temporary Transfer Application T-13609 proposes to temporarily change the place of use of the right to:

**Proposed Place of Use:**

IRRIGATION FROM STAHL PUMPING STATION & EAST IMPROVEMENT DISTRICT PUMPING STATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	TaxLot	
3 N	30 E	WM	14	NE NW	27.68	1401	
3 N	30 E	WM	14	NW NW	29.23	1401	
3 N	30 E	WM	14	SW NW	32.53	1601	
3 N	30 E	WM	14	SE NW	32.06	1700	
3 N	30 E	WM	14	NE SW	8.67	1600	
3 N	30 E	WM	14	NW SW	12.06	1600	
3 N	30 E	WM	14	SW SW	39.79	1601	
3 N	30 E	WM	14	SE SW	35.32	1601	



IRRIGATION FROM STAHL PUMPING STATION & EAST IMPROVEMENT DISTRICT PUMPING STATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	TaxLot
3 N	30 E	WM	15	NE NE	29.94	1401
3 N	30 E	WM	15	NW NE	32.94	1500
3 N	30 E	WM	15	SW NE	34.17	1500
3 N	30 E	WM	15	SE NE	32.04	1601
3 N	30 E	WM	15	NE NW	25.09	0701
3 N	30 E	WM	15	NW NW	26.92	0701
3 N	30 E	WM	15	SW NW	31.85	1500
3 N	30 E	WM	15	SE NW	30.41	1500
3 N	30 E	WM	15	NE SW	0.12	2400
3 N	30 E	WM	15	NW SW	0.16	2400
3 N	30 E	WM	15	NE SE	25.06	1601
3 N	30 E	WM	15	NW SE	9.92	1601
3 N	30 E	WM	15	SW SE	7.54	1601
3 N	30 E	WM	15	SE SE	31.61	1601
3 N	30 E	WM	22	NE NE	0.03	1601
3 N	30 E	WM	22	NW NE	0.04	1601
3 N	30 E	WM	23	NE NW	14.48	1601
3 N	30 E	WM	23	NW NW	18.16	1601
<b>Total</b>					<b>567.82</b>	

10. The authorized place of use described in Finding of Fact #7, above, is layered with supplemental irrigation under Permit S-54773. This permit is not involved in the transfer. The applicant has stated that the irrigation use under Permit S-54773 shall remain unexercised during the period of this temporary transfer.
11. As a condition of Transfer T-13609, the portion of Permit S-54773 that is appurtenant to the authorized place of use as described in Finding of Fact #7, above, shall remain unexercised during the period of this temporary transfer.
12. Portions of the authorized place of use described in Finding of Fact #7, above, are layered with irrigation under primary groundwater Certificates 74762, 87042, or 85124. These groundwater certificates are located in the Subarea D of the Stage Gulch Critical Groundwater Area, and are not involved in this transfer. Certificates 74762, 87042, and 85124 will remain in place and become layered with a Planned Irrigation under Permits S-55114, S-55262, and S-55263, which is the same source of water as Certificates 87111. Certificate 87111 and Permits S-55114, S-55262, & S-55263 each allow for use of primary water from the Columbia River, and under certain conditions, may be used with primary groundwater in a critical ground water area, and therefore are considered to be of similar reliability pursuant to 690-380-2240 (5).
13. As a condition of Transfer T-13609, the portions of Certificates 74762, 87042, and 85124 that are appurtenant to the authorized place of use as described in Finding of Fact #7,

above, may only be exercised during the period of this temporary transfer if layered with irrigation under Columbia River water Permits S-55114, S-55262, and S-55263.

14. The proposed place of use described in Finding of Fact #9, above, will become layered with the same lands for which there is primary use Planned Irrigation Activity during the 2021 irrigation season under Permits S-55114, S-55262, and S-55263. In addition, it may become layered again in subsequent years prior to the termination of this transfer. Together these three permits are deficient in rate rights as described in OAR 690-300-0010 (11), and can therefore be layered with primary irrigation under Certificate 87111, which is also a deficient of rate right. The combined amount of water used under these three permits, together with the amount secured under any other right existing for the same lands, including Certificate 87111, is limited to a diversion of not to exceed ONE-SIXTIETH of one cubic foot per second and 3.5 acre-feet for each acre irrigated during this irrigation season.

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

**Certificate:** 92994 in the name of POTLATCH CORP (perfected under Permit S-36940)  
**Use:** IRRIGATION OF 148.59 ACRES  
**Priority Date:** JUNE 29, 1973  
**Rate:** 3.68 cubic feet per second (CFS)  
**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-FORTIETH 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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** COLUMBIA RIVER, a tributary of the PACIFIC OCEAN

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	FARMLAND RESERVE PUMPING STATION: SOUTH 86°22'46" WEST 2829 FEET FROM THE NE CORNER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION FROM FARMLAND RESERVE PUMPING STATION						
Twp	Rng	Mer	Sec	Q - Q	Acres	TaxLot
9	26 E	WM	16	NE NE	14.68	3418
4 N	26 E	WM	16	NW NE	38.98	3418
4 N	26 E	WM	16	SW NE	14.21	3418
4 N	26 E	WM	16	SE NE	2.41	3418
4 N	26 E	WM	16	NE NW	36.63	3418
4 N	26 E	WM	16	NW NW	26.31	3418
4 N	26 E	WM	16	SE NW	2.20	3418
4 N	26 E	WM	17	NE NE	12.31	3418
4 N	26 E	WM	17	NW NE	0.86	3418
<b>TOTAL:</b>					<b>148.59</b>	



16. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13609 proposes to move the authorized point of diversion to the other side of the pumping platform on the Columbia River at the location described below.

**Proposed Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	COLUMBIA IMPROVEMENT DISTRICT PUMPING STATION: SOUTH 86°22'46" WEST 2829 FEET FROM THE NE CORNER OF SECTION 2

17. Temporary Transfer Application T-13609 proposes to change the place of use of the right to:

**Proposed Place of Use:**

IRRIGATION FROM COLUMBIA IMPROVEMENT DISTRICT PUMPING STATION						
Twp	Rng	Mer	Sec	Q - Q	Acres	TaxLot
2 N	28 E	WM	17	NE NW	1.25	1700
2 N	28 E	WM	17	NW NW	28.89	1702
2 N	28 E	WM	17	SW NW	29.99	1702
2 N	28 E	WM	17	SE NW	3.84	1700
2 N	28 E	WM	17	NE SW	4.22	1700
2 N	28 E	WM	17	NW SW	29.46	1700
2 N	28 E	WM	17	SW SW	29.57	1700
2 N	28 E	WM	17	SE SW	19.94	1700
3 N	28 E	WM	31	NE SW	1.42	300
3 N	28 E	WM	31	SE SW	0.01	300
<b>TOTAL:</b>					<b>148.59</b>	

18. A portion of the proposed place of use described in Finding of Fact #17, above, will become layered with supplemental irrigation under Permit G-17354. This permit is not involved in this transfer. The applicant has stated that the irrigation under Permit G-17354 will remain unexercised at this location during the period of this temporary transfer.
19. As a condition of Transfer T-13609, the portion of Permit G-17354 that is appurtenant to the proposed place of use as described in Finding of Fact #17, above, shall remain unexercised during the period of this temporary transfer.
20. A portion of the proposed place of use described in Finding of Fact #17, above, will become layered with primary groundwater irrigation under Certificate 44654 in the Butter Creek Critical Groundwater Area. This certificate is not involved in this transfer. The applicant has stated that the irrigation under Certificate 44654 will remain unexercised at this location during the period of this temporary transfer.

21. As a condition of Transfer T-13609, the portion of Certificate 44654 that is appurtenant to the proposed place of use as described in Finding of Fact #17, above, shall remain unexercised during the period of this temporary transfer.
22. The proposed place of use described in Finding of Fact #17, above, will become layered with the same lands for which there is supplemental use Planned Irrigation Activity during the 2021 irrigation season under Permits S-54633, S-55061 and S-55190. In addition, it may become layered again in subsequent years prior to the termination of this transfer. Use of water under Certificate 92994 and these permits, once layered, are subject to the following annual conditions:
  - a) The combined amount of water used under Permits S-54633, S-55061 and S-55190, together with the amount secured under any other right existing for the same lands, including Certificate 92994, is limited to a diversion of not to exceed ONE-SIXTIETH of one cubic foot per second and 3.5 acre-feet for each acre irrigated during this irrigation season.
  - b) If water under Permits S-54633, S-55061 and S-55190 is planned for use as supplemental irrigation, then pre-existing primary rights for the same place of use cannot be transferred to another place or character of use.
23. The portion of the third right to be temporarily transferred is as follows:

**Certificate:** 93872 issued in the name of FARMLAND RESERVE, INC. C/O AGRINORTHWEST (perfected under Permit S-36940)

**Use:** IRRIGATION of 490.55 ACRES FROM POD 1

**Priority Dates:** JUNE 29, 1973

**Rate:** 5.17 CUBIC FOOT PER SECOND

**Limit/Duty:** The amount of water used for irrigation is limited to 1/95 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 1.53 acre-feet per acre for each acre irrigated during the irrigation season of each year, and limited to an annual volume of 761.06 acre-feet from POD 1.

**Source:** COLUMBIA RIVER, a tributary of the PACIFIC OCEAN

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	POD 1 (ORIGINAL) - SOUTH 86°22'46" WEST 2829 FEET FROM THE NE CORNER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION FROM POD 1						
Twp	Rng	Mer	Sec	Q - Q	Acres	TaxLot
2 N	28 E	WM	5	NE NE	31.39	900
2 N	28 E	WM	5	NW NE	30.43	900



IRRIGATION FROM POD 1						
Twp	Rng	Mer	Sec	Q - Q	Acres	TaxLot
2 N	28 E	WM	5	SW NE	31.35	900
2 N	28 E	WM	5	SE NE	30.43	900
2 N	28 E	WM	5	NE SW	31.75	900
2 N	28 E	WM	5	NW SW	30.77	900
2 N	28 E	WM	5	SW SW	31.71	900
2 N	28 E	WM	5	SE SW	30.77	900
2 N	28 E	WM	5	NE SE	31.38	900
2 N	28 E	WM	5	NW SE	30.44	900
2 N	28 E	WM	5	SW SE	31.34	900
2 N	28 E	WM	5	SE SE	30.44	900
2 N	28 E	WM	8	SW NE	1.13	1600
2 N	28 E	WM	8	NE SW	14.33	1700
2 N	28 E	WM	8	SE SW	12.07	1700
2 N	28 E	WM	8	NE SE	12.74	1700
2 N	28 E	WM	8	NW SE	39.83	1700
2 N	28 E	WM	8	SW SE	35.70	1700
2 N	28 E	WM	8	SE SE	2.55	1700
<b>TOTAL:</b>					<b>490.55</b>	

24. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13609 proposes to move the authorized point of diversion approximately 30 miles upstream on the Columbia River to the location described below.

**Proposed Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	EID PUMP STATION: 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8

25. Temporary Transfer Application T-13609 proposes to change the place of use of the right to:

**Proposed Place of Use:**

IRRIGATION FROM EID PUMP STATION						
Twp	Rng	Mer	Sec	Q - Q	Acres	TaxLot
3 N	29 E	WM	14	NE NE	29.93	3900
3 N	29 E	WM	14	NW NE	29.67	3900
3 N	29 E	WM	14	SW NE	32.41	3900
3 N	29 E	WM	14	SE NE	32.71	3900
3 N	29 E	WM	14	NE SE	0.23	4000
3 N	29 E	WM	14	NW SE	0.22	4000
3 N	30 E	WM	3	NE SE	15.81	400
3 N	30 E	WM	3	NW SW	21.45	400
3 N	30 E	WM	3	SW SW	32.20	400
3 N	30 E	WM	3	SE SW	21.22	400



IRRIGATION FROM EID PUMP STATION						
Twp	Rng	Mer	Sec	Q - Q	Acres	TaxLot
3 N	30 E	WM	3	NE SE	15.81	400
3 N	30 E	WM	3	NW SE	34.94	400
3 N	30 E	WM	3	SW SE	36.38	400
3 N	30 E	WM	3	SE SE	16.17	400
3 N	30 E	WM	5	SW SE	0.17	500
3 N	30 E	WM	5	SE SE	0.18	500
3 N	30 E	WM	8	NE NE	3.48	1500
3 N	30 E	WM	8	NW NE	28.80	1500
3 N	30 E	WM	8	SW NE	4.06	1500
3 N	30 E	WM	8	SE NE	0.30	1500
3 N	30 E	WM	8	NE SE	34.35	1500
3 N	30 E	WM	8	NW SE	29.34	1500
3 N	30 E	WM	8	SW SE	27.78	1500
3 N	30 E	WM	8	SE SE	31.36	1500
3 N	30 E	WM	9	NW SW	0.58	1500
3 N	30 E	WM	9	SW SW	0.35	1500
3 N	30 E	WM	15	NW SE	10.59	1601
3 N	30 E	WM	15	SW SE	0.06	1601
<b>TOTAL:</b>					<b>490.55</b>	

#### 7.28 SHORT ACRES

26. A portion of the authorized place of use described in Finding of Fact #23, above, is layered with primary groundwater irrigation under Certificate 44654 in the Butter Creek Critical Groundwater Area. This certificate is not involved in the transfer. The applicant has stated that the irrigation use under Certificate 44654 shall remain unexercised during the period of this temporary transfer.
27. As a condition of Transfer T-13609, the portion of Certificate 44654 that is appurtenant to the authorized place of use as described in Finding of Fact #23, above, shall remain unexercised during the period of this temporary transfer.
28. The authorized place of use described in Finding of Fact #23, above, is layered with supplemental irrigation under Permit G-17354. This permit is not involved in the transfer. The applicant has stated that the supplemental irrigation use under Permit G-17354 shall remain unexercised during the period of this temporary transfer.
29. As a condition of Transfer T-13609, the portion of Permit G-17354 that is appurtenant to the authorized place of use as described in Finding of Fact #23, above, shall remain unexercised during the period of this temporary transfer.
30. A portion of the authorized place of use described in Finding of Fact #23, above, is layered with irrigation under Permits S-51017 and S-54675. Permits S-51017 and S-54675 are

deficient in rate rights as described in OAR 690-300-0010 (11). These permits are not involved in the transfer. The applicant has stated that the irrigation use under Permits S-51017 and S-54675 shall remain unexercised during the period of this temporary transfer.

31. As a condition of Transfer T-13609, the portions of Permit S-51017 and S-54675 that are appurtenant to the authorized place of use as described in Finding of Fact #23, above, shall remain unexercised during the period of this temporary transfer.
32. The authorized place of use as described in Finding of Fact #23, above, is appurtenant to lands described under Permits S-54633, S-55061 and S-55190 and S-55192. These permits are for use of water from the Columbia River, tributary to the Pacific Ocean. The applicant has stated that these permits are not currently being exercised on lands appurtenant to the authorized place of use involved in this transfer.
33. Certificate 80850 is appurtenant to a portion of the proposed place of use described in Finding of Fact #25, above. This portion of Certificate 80850 is being concurrently transferred off this location in Temporary Transfer T-13603; therefore, Certificate 93872 will not become layered with Certificate 80850.
34. A portion of the proposed place of use described in Finding of Fact #25, above, will become layered with primary and supplemental irrigation under Permit S-54773. The applicant has stated that the primary irrigation under Permit S-54773 from March 1 to March 31 will remain unexercised at this location during the period of this temporary transfer.
35. As a condition of Transfer T-13609, the portion of Permit S-54773 for primary irrigation that is appurtenant to the proposed place of use described in Finding of Fact #25, above, shall remain unexercised March 1 to March 31, during the period of this temporary transfer.
36. The proposed place of use located in Township 3 North, Range 30 East, Sections 5, 8 and 9, as further described in Finding of Fact #25, will become layered with the same lands for which there is supplemental use Planned Irrigation Activity during the 2021 irrigation season under Permits S-55114, S-55263, and S-55262. In addition, it may become layered again in subsequent years prior to the termination of this transfer. Use of water under Certificate 93872 and these permits, once layered, are subject to the following annual conditions:
  - a) If water under Permits S-55114, S-55263, and S-55262 is planned for use as supplemental irrigation, then pre-existing primary rights for the same place of use cannot be transferred to another place or character of use.
  - b) The combined amount of water used under Permits S-55114, S-55263, and S-55262, together with the amount secured under any other right existing for the same lands, including Certificate 93872, is limited to a diversion of not to exceed ONE-SIXTIETH of



one cubic foot per second and 3.5 acre-feet for each acre irrigated during this irrigation season.

37. The remaining portion of the proposed place of use described in Finding of Fact #25, above, will become layered with the same lands for which there is primary use Planned Irrigation Activity during the 2021 irrigation season under Permits S-55114, S-55263, and S-55262. In addition, it may become layered again in subsequent years prior to the termination of this transfer. Together these three permits are deficient in rate rights as described in OAR 690-300-0010 (11), and can therefore be layered with primary irrigation under Certificate 93872, which is limited to 1/95 of one cubic foot per second per acre, and further limited to a diversion of not to exceed 1.53 acre-feet per acre. The combined amount of water used under these three permits, together with the amount secured under any other right existing for the same lands, including Certificate 93872, is limited to a diversion of not to exceed ONE-SIXTIETH of one cubic foot per second and 3.5 acre-feet for each acre irrigated during this irrigation season.

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

**Certificate:** 95154 in the name of FARMLAND RESERVE, INC. C/O AGRINORTHWEST (perfected under Permit S-36940)

**Use:** IRRIGATION OF 21.87 ACRES

**Priority Date:** JULY 25, 1973

**Rate:** 0.46 CUBIC FEET PER SECOND (CFS), PROVIDED THE TOTAL QUANTITY DIVERTED UNDER CERTIFICATE 95154 AND UNDER THE RIGHTS PERFECTED UNDER PERMIT 37150 DOES NOT EXCEED 140.1 CFS

**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 ONE-FORTIETH 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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** COLUMBIA RIVER, a tributary of the PACIFIC OCEAN

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	COLUMBIA RIVER PUMP STATION - SOUTH 86°22'46" WEST 2829 FEET FROM THE NE CORNER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	Acres	TaxLot
3 N	27 E	WM	4	SW SW	8.25	200
3 N	27 E	WM	4	SE SW	13.62	200
<b>TOTAL:</b>					<b>21.87</b>	

39. Temporary Transfer Application T-13609 proposes to change the place of use of the right to:

**Proposed Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q - Q	GLot	Acres	TaxLot
4 N	26 E	WM	19	NE NW		0.02	3416
4 N	26 E	WM	19	NW NW	1	0.62	3416
4 N	26 E	WM	19	SWNW	2	14.72	3416
4 N	26 E	WM	19	SE NW		6.51	3416
<b>TOTAL:</b>						<b>21.87</b>	

40. The authorized place of use as described in Finding of Fact #38, above, is appurtenant to lands described under Permits S-54633, S-55061 and S-55190 and S-55192. These permits are for use of water from the Columbia River, tributary to the Pacific Ocean. The applicant has stated that these permits are not currently being exercised on lands appurtenant to the authorized place of use involved in this transfer. Therefore, the authorized place of use under Certificate 95154 described in FOF #38 is not subject to conditions set forth in Permits S-54633, S-55061, S-55190, nor S-55192.

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

**Certificate:** 95155 in the name of FARMLAND RESERVE, INC. C/O AGRINORTHWEST (perfected under Permit S-36940)

**Use:** IRRIGATION OF 30.78 ACRES

**Priority Date:** JUNE 29, 1973

**Rate:** 0.76 CUBIC FOOT PER SECOND (CFS)

**Limit/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH 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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** COLUMBIA RIVER, a tributary of the PACIFIC OCEAN

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	COLUMBIA RIVER PUMP STATION - SOUTH 86°22'46" WEST 2829 FEET FROM THE NE CORNER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	Acres	TaxLot
4 N	26 E	WM	26	NW SW	4.45	3414
4 N	26 E	WM	26	SW SW	20.62	3414
4 N	26 E	WM	26	SE SW	0.26	3414



IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	Acres	TaxLot
4 N	26 E	WM	35	NW NW	5.25	3414
<b>TOTAL:</b>					<b>30.58</b>	

42. Temporary Transfer Application T-13609 proposes to change the place of use of the right to:

**Proposed Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q - Q	GLot	Acres	TaxLot
2 N	28 E	WM	7	SE NE		3.26	1400
4 N	26 E	WM	19	NE NW	1	12.31	3416
4 N	26 E	WM	19	NW NW	2	15.01	3416
<b>TOTAL:</b>						<b>30.58</b>	

43. A portion of the proposed place of use (3.26 acres) described in Finding of Fact #42, above, will become layered with primary groundwater irrigation under Certificate 44654 in the Butter Creek Critical Groundwater Area. This certificate is not involved in the transfer. The applicant has stated that the irrigation use under Certificate 44654 shall remain unexercised at this location during the period of this temporary transfer.

44. As a condition of Transfer T-13609, the 3.6 acres of Certificate 44654 that are appurtenant to the proposed place of use as described in Finding of Fact #42, above, shall remain unexercised during the period of this temporary transfer.

45. A portion of the proposed place of use (3.26 acres) described in Finding of Fact #42, above, is layered with supplemental irrigation under Permit G-17354. This permit is not involved in the transfer. The applicant has stated that the supplemental irrigation use under Permit G-17354 shall remain unexercised at this location during the period of this temporary transfer.

46. As a condition of Transfer T-13609, the 3.26 acres of Permit G-17354 that are appurtenant to the proposed place of use as described in Finding of Fact #42, above, shall remain unexercised during the period of this temporary transfer.

47. A portion of the proposed place of use (3.26 acres) described in Finding of Fact #42, above, will become layered with the same lands for which there is supplemental use Planned Irrigation Activity during the 2021 irrigation season under Permits S-54633, S-55061, and S-55190. In addition, it may become layered again in subsequent years prior to the termination of this transfer. Use of water under Certificate 95155 and these permits, once layered, are subject to the following annual conditions:

- a) The combined amount of water used under Permits S-54633, S-55061, and S-55190, together with the amount secured under any other right existing for the same lands, including Certificate 95155, is limited to a diversion of not to exceed ONE-SIXTIETH of

one cubic foot per second and 3.5 acre-feet for each acre irrigated during this irrigation season.

- b) If water under Permits S-54633, S-55061, and S-55190 is planned for use as supplemental irrigation, then pre-existing primary rights for the same place of use cannot be transferred to another place or character of use.

- 48. Pursuant to ORS 540.523(7), during the period of this temporary transfer, this transfer must be conditioned to prevent lands from which the water right is removed from receiving water under the transferred water right.

### ***Temporary Transfer Review Criteria***

- 49. The water rights are subject to transfer as defined in OAR 690-380-0100(14).
- 50. 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.
- 51. Diversion structures, district canals, pumps, pump stations, ditches, pipeline, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
- 52. The proposed changes, as conditioned, would prevent the lands from which the water right is removed during the period of the temporary transfer from receiving water under the transferred rights, as required by ORS 540.523(7).
- 53. The Department finds the proposed changes, as conditioned, would not result in injury to other water rights in accordance with ORS 540.523(2). 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.
- 54. All other applicable requirements for a temporary water right transfer pursuant to OAR Chapter 690, Division 380, are met.

### **Conclusions of Law**

The temporary changes in place of use and in some points of diversion needed to convey water to the temporary places of use proposed in Temporary Transfer Application T-13609, as conditioned above, are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

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

- 1. The temporary change in places of use and change in points of diversion to convey water to the temporary places of use proposed in Temporary Transfer Application T-13609 are approved, as conditioned below.



2. The lands from which the water rights described by Water Right Certificates 87111, 92992, 93872, 95154 and 95155 are temporarily removed shall not receive any water under the rights during the 2021, 2022, 2023, 2024, and 2025 irrigation seasons.
3. The portion of Permit S-54773 that is appurtenant to the authorized place of use as described in Finding of Fact #7, above, shall remain unexercised during the period of this temporary transfer.
4. The portions of Certificates 74762, 87042, and 85124 that are appurtenant to the authorized place of use as described in Finding of Fact #7, above, may only be exercised during the period of this temporary transfer if layered with irrigation under Columbia River water Permits S-55114, S-55262, and S-55263.
5. The portion of Permit G-17354 that is appurtenant to the proposed place of use as described in Finding of Fact #17, above, shall remain unexercised during the period of this temporary transfer.
6. The portion of Certificate 44654 that is appurtenant to the proposed place of use as described in Finding of Fact #17, above, shall remain unexercised during the period of this temporary transfer.
7. The portion of Certificate 44654 that is appurtenant to the authorized place of use as described in Finding of Fact #23, above, shall remain unexercised during the period of this temporary transfer.
8. The portion of Permit G-17354 that is appurtenant to the authorized place of use as described in Finding of Fact #23, above, shall remain unexercised during the period of this temporary transfer.
9. The portions of Permit S-51017 and S-54675 that are appurtenant to the authorized place of use as described in Finding of Fact #23, above, shall remain unexercised during the period of this temporary transfer.
10. The portion of Certificate 80850 that is appurtenant to the proposed place of use as described in Finding of Fact #25, above, shall remain unexercised during the period of this temporary transfer.
11. The portion of Permit S-54773 that is appurtenant to the proposed place of use as described in Finding of Fact #25, above, shall remain unexercised during the period of this temporary transfer.
12. The 3.6 acres of Certificate 44654 that are appurtenant to the proposed place of use as described in Finding of Fact #42, above, shall remain unexercised during the period of this temporary transfer.

13. The 3.6 acres of Permit G-17354 that are appurtenant to the proposed place of use as described in Finding of Fact #42, above, shall remain unexercised during the period of this temporary transfer.
14. All uses of water under this temporary transfer shall revert automatically to the authorized place of use at the end of the 2025 irrigation season, or earlier, if requested in writing by the applicant. The authorization to use changed points of diversion shall be terminated concurrently.
15. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
16. Any application for permanent transfer for permanent transfer of Certificates 87111, 92992, 93872, 95154 and/or 95155 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 87111, 92992, 93872, 95154 and 95155.
18. The time during which water is used on the proposed lands under this approved temporary transfer does not apply toward a finding of forfeiture of Certificates 87111, 92992, 93872, 95154 and 95155 under ORS 540.610.
19. 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 diversion.
  - 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.



20. The use of the remaining water rights described by Certificates 87111, 92992, 93872, 95154 and 95155 not involved in this transfer shall continue to be in accordance with the terms and conditions of Certificates 87111, 92992, 93872, 95154 and 95155.

Dated in Salem, Oregon on **APR 15 2021**



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

Mailing Date: **APR 16 2021**