

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13141, Umatilla County)	TEMPORARY CHANGES IN PLACE OF
)	USE, POINT OF DIVERSION AND
)	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

FARMLAND RESERVE, INC.
P.O. BOX 2308
PASCO, WA 99302

Agent

MATTHEW VICKERY
6716 WEST RIO GRANDE
KENNEWICK, WA 99336

Findings of Fact

1. On March 5, 2019, FARMLAND RESERVE, INC., filed an application to temporarily change the place of use and points of diversion/appropriation under Certificates 87373 and 92992 for a period of one year. The Department assigned the application number T-13141.
2. Transfer application T-13141 contains information in the file of water rights existing on the "TO" lands (Permit S-55114, Permit S-55061, Permit S-54773, Permit S-55190, Permit 55192, Certificates 85124 and 87111) proposed in transfer application T-13141. The applicant has stated these water rights will not be exercised during the 2019 irrigation season and requested that these water rights not be included as part of this Temporary Transfer application.
3. Notice of the application for transfer was published on March 12, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

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.

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

Certificate: 87373 in the name of VERDON LLC (perfected under Permit G-7183)

Use: IRRIGATION of 29.5 ACRES

Priority Date: FEBRUARY 25, 1977

Rate: 0.37 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL, within the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	28 E	WM	24	SE NE	WELL 4 - 660 FEET NORTH AND 670 FEET WEST FROM THE E $\frac{1}{4}$ CORNER OF SECTION 24

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	28 E	WM	24	SE NE	29.5

5. Temporary Transfer Application T-13141 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	29 E	WM	13	NE SW	29.5

6. Temporary Transfer Application T-13141 also proposes to move the authorized point of appropriation to accommodate the place of use change described in Finding No. 5 above approximately 5.2 miles southeast from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	29 E	WM	9	SE SW	SEIBEL WELL - 380 FEET NORTH AND 3120 FEET WEST FROM THE SE CORNER OF SECTION 9

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

Certificate: 92992 in the name of POTLATCH CORPORATION (perfected under Permit S-37150)

Use: IRRIGATION OF 124.95 ACRES

Priority Date: JULY 25, 1973

Rate: 2.69 CFS, PROVIDED THE TOTAL QUANTITY DIVERTED 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 cfs 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	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
3 N	26 E	WM	1	SW SE	10.24
3 N	26 E	WM	1	SE SE	6.61
3 N	26 E	WM	3	NE NE	4.05
3 N	26 E	WM	3	NE SE	5.44
3 N	26 E	WM	5	SW NE	5.44
3 N	26 E	WM	5	NW NW	4.80
3 N	26 E	WM	5	SW NW	5.00
3 N	26 E	WM	5	SW SW	5.85
3 N	26 E	WM	7	SW NW	5.79
3 N	26 E	WM	7	NW SE	4.00
3 N	26 E	WM	7	SW SE	3.17
3 N	26 E	WM	8	NW NE	5.60
3 N	26 E	WM	8	SW NE	3.24
3 N	26 E	WM	8	NW SE	2.32
3 N	26 E	WM	8	SW SE	4.79
3 N	26 E	WM	8	SE SE	0.08
3 N	26 E	WM	9	NW SW	5.66
3 N	26 E	WM	9	NE SE	7.40
3 N	26 E	WM	9	NW SE	5.80
3 N	26 E	WM	12	NE NE	5.69
3 N	26 E	WM	12	SW NE	9.09
3 N	26 E	WM	12	SE NE	6.42
3 N	26 E	WM	13	SE NE	0.06
3 N	26 E	WM	13	NW NW	5.49
3 N	26 E	WM	13	SW NW	1.18
3 N	26 E	WM	13	NW SW	1.74
Total					124.95

8. Transfer Application T-12522 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	29 E	WM	1	SW NE	4.90
3 N	29 E	WM	1	SE NE	0.40
3 N	29 E	WM	1	NE SE	9.40
3 N	29 E	WM	1	NW SE	3.20

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	29 E	WM	1	SW SE	3.70
3 N	29 E	WM	1	SE SE	0.40
3 N	29 E	WM	13	SW SE	3.55
3 N	30 E	WM	7	NE NE	8.10
3 N	30 E	WM	7	NW NE	16.20
3 N	30 E	WM	7	SW NE	21.70
3 N	30 E	WM	7	SE NE	18.30
3 N	30 E	WM	8	SW NE	0.10
3 N	30 E	WM	8	SE NE	0.30
3 N	30 E	WM	8	NE SE	31.70
3 N	30 E	WM	8	NW SE	2.60
3 N	30 E	WM	9	NW SW	0.40
Total					124.95

9. Temporary Transfer Application T-13141 also proposes to move the authorized point of diversion to accommodate the place of use change described in Finding No. 8 above approximately 29.5 miles upstream on the Columbia River to:

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

10. There are several primary irrigation water rights, Permit S-55014, Permit S-54773, Permit S-55061, Permit S-55114, Permit S-55190, Permit 55192, Certificates 85124 and 87111, appurtenant to all or a portion of the lands described above in Finding of Fact Nos. 4, 5, 7 and 8. During the term of the Temporary Transfer, water use under these rights are either already shut off, do not supply enough water or have not been activated by mitigation or intended to be used on these acres and thus shall not be exercised.
11. The Department has determined that the proposed point of appropriation (Seibel Well (UMAT 54154)) is within the same Subarea A of the Stage Gulch Critical Ground Water Area and will develop the same source of water as the authorized existing Well 4 (UMAT 2515).

Temporary Transfer Review Criteria

12. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence that would demonstrate that the right is subject to forfeiture under ORS 540.610.
13. A well, pumping platform structure and pumps, pipeline, and sprinkler 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-13141.
14. The proposed changes would not result in enlargement of the rights.

15. The proposed changes, as conditioned herein, 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, change in point of diversion and change in point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-13141 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, point of diversion and point of appropriation to serve the temporary places of use proposed in Temporary Transfer Application T-13141 are approved.
2. The former places of use **shall not** be irrigated as part of this water right during the 2019 irrigation season.
3. The quantity of water diverted under Certificate 87373 at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation. The quantity of water diverted under Certificate 92992 at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.
4. Water from the new point of appropriation shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
6. The use shall revert to the authorized place of use at the end of the 2019 irrigation season. The authorization to use the temporary point of appropriation shall be terminated concurrently.
7. The approval of this temporary transfer may be revoked or modified if the Department finds the changes causes injury to any existing water right.
8. Subsequent applications for permanent transfers of Certificates 87373 and Certificate 92992 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.
9. 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 87373 and Certificate 92992.
10. There are water rights existing on the proposed "TO" lands as identified in Findings of Fact No. 5 and No. 8. As described above in Finding No. 10, water use for primary irrigation under these water rights shall be suspended during the 2019 irrigation season.

11. The use of the remaining water rights described by Certificates 87373 and 9299287373 shall continue to be in accordance with the terms and conditions of Certificates 87373 and 9299287373.
12. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.

Dated in Salem, Oregon on **JUN 03 2019**



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

Mailing Date: **JUN 04 2019**