

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

In the Matter of Transfer Application        )        FINAL ORDER APPROVING A  
T-11129, Wasco County                    )        TEMPORARY CHANGE IN PLACE OF  
  )        USE

**Authority**

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.

OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

THE PRESIDING PATRIARCH  
THE ECCLESIA OF SINAI AT DUFUR  
79709 DUFUR VALLEY RD  
DUFUR OR 97021

**Findings of Fact**

1. On September 9, 2010, THE PRESIDING PATRIARCH, THE ECCLESIA OF SINAI AT DUFUR filed an application to change the place of use under Certificates 76595, 36829, 36830, 80871, and 86413. The Department assigned the application number T-11129.
2. On December 22, 2010, the applicant's agent requested the transfer application be amended to a temporary application for a 5 year period for the irrigation seasons of 2011 through 2015.
3. The portion of the first right to be transferred is as follows:
  - Certificate:** 76595 in the name of WOLF RUN WATER USERS ASSOCIATION  
(perfected under Permits S-92, S-93)
  - Use:** IRRIGATION of 27.1 ACRES and LIVESTOCK
  - Priority Date:** MAY 3, 1909

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.

**Rate:** 0.354 CUBIC FOOT PER SECOND, being 0.339 CFS for IRRIGATION and 0.015 CFS for LIVESTOCK

**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-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

**Sources:** TAMARACK CREEK, SPRINGS, GULCH and EIGHT MILE CREEK, tributaries to the COLUMBIA RIVER

**Authorized Points of Diversion:**  
WOLF RUN DITCH

**Authorized Place of Use:**

IRRIGATION AND LIVESTOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	12 E	WM	34	SW NW	10.0
1 S	12 E	WM	34	SE SW	1.0
1 S	12 E	WM	34	NE SE	3.0
1 S	12 E	WM	35	SW NE	1.0
2 S	12 E	WM	3	NE NW	3.5
2 S	12 E	WM	4	SE NE	3.6
2 S	12 E	WM	4	NE NW	5.0

4. Transfer Application T-11129 proposes to change the place of use of the right to:

IRRIGATION AND LIVESTOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	12 E	WM	34	SW NE	14.0
1 S	12 E	WM	34	SE NE	1.5
1 S	12 E	WM	34	SE NW	5.8
1 S	12 E	WM	34	NE SW	5.8

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

**Certificate:** 36829 in the name of BERTA STELZER (perfected under Permit S-5636)

**Use:** IRRIGATION of 20.0 ACRES

**Priority Date:** AUGUST 25, 1922

**Rate:** 0.25 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 in case of rotation.

**Source:** EIGHT MILE CREEK and TAMARACK CREEK, tributaries to FIFTEEN MILE CREEK

**Authorized Points of Diversion:**

	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	11 E	WM	8	NW SW	EIGHT MILE CREEK: 1400 FEET NORTH AND 650 FEET EAST FROM THE SW CORNER OF SECTION 8
2 S	11 E	WM	11	SW SE	TAMARACK CREEK: NORTH 54 DEGREES 45 MINUTES WEST 1840 FEET FROM THE SE CORNER OF SECTION 11

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	12 E	WM	34	SW NE	20.0

6. Transfer Application T-11129 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	12 E	WM	33	NE SE	5.0
1 S	12 E	WM	33	SE SE	6.0
1 S	12 E	WM	34	NW SW	1.3
1 S	12 E	WM	34	SW SW	7.7

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

**Certificate:** 36830 in the name of BERTA STELZER (perfected under Permit S-7318)

**Use:** IRRIGATION of 10.0 ACRES and LIVESTOCK

**Priority Date:** MAY 7, 1926

**Rate:** 0.18 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 a diversion of ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent in case of rotation.

**Source:** EIGHT MILE and TAMARACK CREEKS, tributaries to FIFTEEN MILE CREEK

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	11 E	WM	8	NW SW	EIGHT MILE CREEK: 1400 FEET NORTH AND 650 FEET EAST FROM THE SW CORNER OF SECTION 8
2 S	11 E	WM	11	SW SE	TAMARACK CREEK: NORTH 54 DEGREES 45 MINUTES WEST 1840 FEET FROM THE SE CORNER OF SECTION 11

**Authorized Place of Use:**

IRRIGATION AND LIVESTOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	12 E	WM	3	SW NW	10.0

8. Transfer Application T-11129 proposes to change the place of use of the right to:

IRRIGATION AND LIVESTOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	12 E	WM	33	NE SE	10.0

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

**Certificate:** 80871 in the names of RICHARD C. CANTRELL; SUNE CARL AND ETHEL JOHNSON; GEORGE H. AND VIRGINIA C. WHITELY (perfected under Permit S-37758)

**Use:** IRRIGATION of 1.2 ACRES

**Priority Date:** DECEMBER 10, 1973

**Rate:** 0.01 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:** EIGHTMILE CREEK, tributary to the COLUMBIA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	11 E	WM	8	NE SW	1600 FEET NORTH AND 1920 FEET EAST FROM THE SW CORNER OF SECTION 8

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	12 E	WM	4	NE SE	1.2

10. Transfer Application T-11129 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	12 E	WM	34	NE NE	0.1
1 S	12 E	WM	34	SE NE	1.1

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

**Certificate:** 86413 in the name of WOLF RUN WATER USERS ASSOCIATION (perfected under Permits S-92 and S-93)

**Use:** IRRIGATION of 39.3 ACRES and LIVESTOCK  
**Priority Date:** MAY 3, 1909  
**Rate:** 0.51 CUBIC FOOT PER SECOND, being 0.50 CFS for IRRIGATION and 0.01 CFS for LIVESTOCK  
**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 and the balance for stock use.  
**Source:** TAMARACK CREEK, SPRINGS AND GULCH, AND EIGHT MILE CREEK, tributaries to the COLUMBIA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	11 E	WM	8	NW SW	WOLF RUN DITCH: 1400 FEET NORTH AND 650 FEET EAST FROM THE SW CORNER OF SECTION 8

**Authorized Place of Use:**

IRRIGATION AND LIVESTOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	12 E	WM	34	NW SW	10.0
2 S	12 E	WM	3	NE NE	5.0
2 S	12 E	WM	3	NW NE	15.0
2 S	12 E	WM	3	NE NW	4.1
2 S	12 E	WM	3	SE NW	5.2

12. Transfer Application T-11129 proposes to change the place of use of the right to 16.9 acres irrigated land (IR); 20.0 acres of micro sprinkler irrigated strips (MS) 7 feet wide, interspersed with 8 feet wide non-irrigated land; and 2.4 acres drip irrigated strips (DS) 2 feet wide, interspersed with 8 feet wide non-irrigated land.

IRRIGATION AND LIVESTOCK						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type
1 S	12 E	WM	34	NE NE	0.3	IR
1 S	12 E	WM	34	SE NE	11.1	IR
1 S	12 E	WM	34	SW SE	6.6	MS
1 S	12 E	WM	34	SE SE	6.6	MS
1 S	12 E	WM	35	SW NW	0.3	IR
2 S	12 E	WM	3	NE NE	0.5	IR
2 S	12 E	WM	3	NE NE	1.3	DS
2 S	12 E	WM	3	NE NE	2.4	MS
2 S	12 E	WM	3	NW NE	1.1	DS
2 S	12 E	WM	3	NW NE	4.4	MS
2 S	12 E	WM	3	NW NE	3.1	IR
2 S	12 E	WM	3	NW NW	1.6	IR

13. Notice of the application for transfer was published on September 14, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

**Temporary 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 diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-11129.
16. Due to the complexity of the layout of the fields to be irrigated with micro sprinklers and drip irrigation, the proposed changes in place of use could result in enlargement of the right if the application of water extends beyond the proposed place of use for the micro sprinkler and drip irrigated strips. Adherence to the soil moisture monitoring conditions listed below would provide the tools necessary to determine that enlargement is not occurring.
17. The proposed changes would not result in injury to other water rights.
18. 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, or OAR 690-380-8004(9)(a) if the Department finds that the transfer results in enlargement of the right.

**Conclusions of Law**

The temporary changes in places of use proposed in application Temporary Transfer Application T- 11129 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 proposed in Temporary Transfer Application T-11129 are approved as outlined below, with the type of irrigation limitations under Certificate 86413 as specified in Finding of Fact #12.

IRRIGATION AND LIVESTOCK						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type
1 S	12 E	WM	34	NE NE	0.3	IR
1 S	12 E	WM	34	SE NE	11.1	IR
1 S	12 E	WM	34	SW SE	6.6	MS
1 S	12 E	WM	34	SE SE	6.6	MS
1 S	12 E	WM	35	SW NW	0.3	IR
2 S	12 E	WM	3	NE NE	0.5	IR
2 S	12 E	WM	3	NE NE	1.3	DS
2 S	12 E	WM	3	NE NE	2.4	MS
2 S	12 E	WM	3	NW NE	1.1	DS

IRRIGATION AND LIVESTOCK						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type
2 S	12 E	WM	3	NW NE	4.4	MS
2 S	12 E	WM	3	NW NE	3.1	IR
2 S	12 E	WM	3	NW NW	1.6	IR

2. The water user shall install and maintain a soil moisture monitoring system for the lands irrigated under the micro-sprinkler and drip irrigated strips.
  - a) The monitoring system shall include Gro-Point Sensors or a similar monitoring system capable of accuracy that is equivalent to or superior to the level of accuracy provided by the Gro-Point system. The type of system and installation plans must be approved by the Watermaster prior to installation.
  - b) A control soil measurement site shall be selected for each soil type and slope that receives only natural moisture from the atmosphere, and does not receive direct irrigation water nor irrigation water runoff.
  - c) A soil moisture monitoring site shall be made for each crop type grown under the micro sprinkler and drip irrigation systems.
  - d) At each soil moisture monitoring site, the soil moisture measurements shall be made along straight lines with the following descriptions:

Monitoring points along a line perpendicular to the row. The first monitoring sensor shall be in the center of the proposed irrigated strip; monitoring sensor 2 shall be placed within 2 inches outside of the proposed strip of irrigated land; monitoring sensor 3 will be placed in the center of the non-irrigated strip.
  - e) Additional soil moisture monitoring stations shall be installed as required by the Watermaster where conditions dictate more monitoring stations are required to effectively determine irrigation is occurring only where there is an appurtenant water right. The monitoring program, including both the number and location of the monitoring sites, shall be approved by the Watermaster prior to installation.
  - f) Modification to the monitoring station locations may occur at any time after one year, as deemed necessary and/or appropriate by the Watermaster.
  - g) Soil moisture content shall be monitored continuously or collected at a minimum of weekly intervals beginning at least one week prior to the irrigation season and continuing until one week past the end of the irrigation season. Soil moisture data collected from the monitoring system shall be reported to the Watermaster in summary format including equipment used and monitoring data listed by station and measurement field, as approved by the Watermaster.
  - h) Soil moisture reports shall be made during the first week prior to the irrigation season and once per week during the first three weeks of the irrigation season. Unless otherwise required by the Watermaster, soil moisture data collected shall be reported to


the Watermaster within 3 days of the data collection date. Reporting requirements may be modified, as dictated by the Watermaster or upon written request from the water user subject to approval of the Watermaster. However, review of the monitoring program can occur at any time with a formal request from the water user or the Watermaster. Modification to the monitoring program may occur at any time as deemed necessary and/or appropriate by the Watermaster.

- i) Upon reasonable notice the water user shall provide the Watermaster access to moisture monitoring stations as well as access to monitoring data and flow data, including access to real time data on an internal web site or computer.
  - j) The water user shall promptly inform the Watermaster of any situation that results in the application of water to any land without a water right, including but not limited to the areas between crop rows. The water user shall also inform the Watermaster of the course of action taken by the water user to correct the problem and prevent the future occurrence of similar events.
  - k) If water is applied to lands without water rights, including but not limited to, the area between the crop rows, the Watermaster may regulate the water use until the soil moisture and flow data demonstrate that the areas without water rights are no longer receiving water.
3. The former place of use **shall not** be irrigated as part of these water rights during the 2011, 2012, 2013, 2014 and 2015 irrigation seasons.
  4. 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 changes cause injury to any existing water right or results in enlargement of the right.
  6. A subsequent application for permanent transfer of Certificates 76595, 36829, 36830, 80871, and 86413 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.
  7. 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 76595, 36829, 36830, 80871, and 86413.
  8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.



9. The use of the remaining water rights described by Certificates 76595, 80871, and 86413 shall continue to be in accordance with the terms and conditions of Certificates 76595, 80871, and 86413.

Dated at Salem, Oregon this 29<sup>th</sup> day of December, 2010.

  
Dwight French for  
PHILLIP C. WARD, DIRECTOR

Mailing Date: JAN 06 2011