

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-12847, Wallowa County	)	TEMPORARY CHANGES IN PLACE
	)	OF USE AND POINT 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**

CORNERSTONE FARMS J.V.  
64022 IMNAHA HWY  
JOSEPH, OR 97846

**Findings of Fact**

1. On February 12, 2018, CORNERSTONE FARMS J.V. filed an application to temporarily change the place of use and change the point of diversion to serve the proposed place of use under Certificates 2993, 59063, 62259, and 62262 for a period of 5 years. The Department assigned the application number T-12847.
2. Notice of the application for transfer was published on February 20, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 13, 2018, the Department contacted Cornerstone Farms, J.V., by written correspondence to notify the applicant and the applicant’s agent of the deficiencies in the application. The Department requested that the deficiencies be resolved by May 29, 2018.
4. On April 24, 2018, the applicant submitted revised maps to correctly identify the acres being transferred.

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:** 2993 in the name of GEO. S. CRAIG (confirmed by Wallowa River decree)  
**Use:** IRRIGATION of 2.8 ACRES OF LAND  
**Priority Date:** 1895 FOR TRACT NO. 1  
**Rate:** 0.04 CUBIC FOOT PER SECOND  
**Limit/Duty:** That the amount of water to which such right is entitled and hereby confirmed for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed one-eightieth of one cubic foot per second per acre; and said right shall be subject to all other conditions and limitations contained in said decree.  
**Source:** PRAIRIE CREEK, a tributary of the WALLOWA RIVER

**Authorized Point of Diversion:**

CRAIG DITCH POD 3			
Twp	Rng	Mer	Sec
2 S	44 E	WM	1

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	44 E	WM	1	NE SE	0.7
2 S	44 E	WM	1	NW SE	2.1
Total					2.8

6. Temporary Transfer Application T-12847 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	44 E	WM	1	NE NE	1.6
2 S	44 E	WM	1	NW NE	1.2
Total					2.8

A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12847 proposes to move the authorized point of diversion approximately 0.6 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
2 S	44 E	WM	1	NW SE	10	POD 2 - 2060 FEET NORTH AND 1890 FEET WEST FROM THE SE CORNER OF SECTION 1

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

**Certificate:** 59063 in the name of DORIA L. AUDET (perfected under Permit S-41063)  
**Use:** IRRIGATING 4.5 ACRES  
**Priority Date:** SEPTEMBER 2, 1976  
**Rate:** 0.04 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-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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** PRAIRIE CREEK, tributary of WALLOWA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
2 S	44 E	WM	1	NW SE	10	2060 FEET NORTH AND 1890 FEET WEST FROM THE SE CORNER OF SECTION 1

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
2 S	44 E	WM	1	NE SE	9	2.0
2 S	44 E	WM	1	NW SE	10	2.5
Total						4.5

8. Temporary Transfer Application T-12847 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
2 S	44 E	WM	1	NE NE	1	3.3
2 S	44 E	WM	1	SW NE	7	1.2
Total						4.5

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

**Certificate:** 62259 in the name of TIM J. MELVILLE (perfected under Permit S-40278)

**Use:** IRRIGATING 67.7 ACRES

**Priority Date:** APRIL 22, 1976

**Rate:** 1.69 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, shall be 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year. IN THE EVENT OF A REQUEST FOR A CHANGE IN POINT OF DIVERSION, ADDITIONAL POINT OF DIVERSION, CHANGE IN PLACE OR CHARACTER OF USE, THE QUANTITY OF WATER ALLOWED HEREIN TOGETHER WITH ANY EXISTING WATER RIGHTS FROM THIS POINT OF DIVERSION SHALL NOT EXCEED 8.2 CFS.

**Source:** PRAIRIE CREEK, a tributary of WALLOWA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	45 E	WM	5	SW NE	580 FEET NORTH AND 510 FEET EAST FROM THE C1/4 CORNER OF SECTION 5

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
1 S	45 E	WM	31	NE SE		11.1
1 S	45 E	WM	31	SE SE		5.6
2 S	45 E	WM	6	NE NE	1	24.6
2 S	45 E	WM	6	NW NE	2	2.8
2 S	45 E	WM	6	SW NE		1.9
2 S	45 E	WM	6	SE NE		21.7
Total						67.7

10. Temporary Transfer Application T-12847 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
1 S	44 E	WM	36	NE SE		9.2
1 S	44 E	WM	36	NW SE		11.0
1 S	44 E	WM	36	SW SE		24.0
1 S	44 E	WM	36	SE SE		18.8
2 S	44 E	WM	1	NE NE	1	4.7
Total						67.7

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

**Certificate:** 62262 in the name of TIM J. MELVILLE (perfected under Permit S-40577)

**Use:** IRRIGATING 20.6 ACRES

**Priority Date:** JUNE 9, 1976

**Rate:** 0.5 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-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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year. IN THE EVENT OF A REQUEST FOR A CHANGE IN POINT OF DIVERSION, ADDITIONAL POINT OF DIVERSION, CHANGE IN PLACE OR CHARACTER OF USE, THE QUANTITY OF WATER ALLOWED HEREIN TOGETHER WITH ANY EXISTING WATER RIGHTS FROM THIS POINT OF DIVERSION SHALL NOT EXCEED 8.2 CFS.

**Source:** PRAIRIE CREEK, a tributary of WALLOWA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	45 E	WM	5	SW NE	580 FEET NORTH AND 510 FEET EAST FROM THE C1/4 CORNER OF SECTION 5

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
1 S	45 E	WM	31	NE SW		6.8
1 S	45 E	WM	31	NW SW	3	5.4
1 S	45 E	WM	31	SW SW	4	1.9
1 S	45 E	WM	31	SE SW		2.7
2 S	45 E	WM	6	NE NW	3	2.9
2 S	45 E	WM	6	NW NW	4	0.9
Total						20.6

12. Temporary Transfer Application T-12847 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
1 S	44 E	WM	36	SE SE		5.1
2 S	44 E	WM	1	NE NE	1	1.7
2 S	44 E	WM	1	NE NW		2.1
2 S	44 E	WM	1	SE NW		2.9
2 S	44 E	WM	1	SE NW	6	2.2
2 S	45 E	WM	6	NW NW	4	2.1
2 S	45 E	WM	6	SW NW	5	4.5
Total						20.6

**Temporary Transfer Review Criteria**

13. 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.
14. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
15. The proposed changes would not result in enlargement of the rights.
16. 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 and point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12847 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 and change in point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12847 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2018, 2019, 2020, 2021 and 2022 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2022 irrigation season. The authorization to use the additional point of diversion shall be terminated concurrently.
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 2993, 59063, 62259, and 62262, 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 2993, 59063, 62259, and 62262.
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. Water use measurement conditions:
  - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, at each new 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.

9. The use of the remaining water rights described by Certificates 2993, 59063, 62259, and 62262 shall continue to be in accordance with the terms and conditions of Certificates 2993, 59063, 62259, and 62262.

Dated at Salem, Oregon this 2nd day of May, 2018.



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

Mailing Date: MAY 03 2018