# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-12057, Marion County	)	TEMPORARY CHANGES IN PLACE
	)	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**

DICKMAN FARMS INC.
MARK DICKMAN
15829 MT ANGEL-SCOTTS MILLS RD NE
SILVERTON, OR 97381

# **Findings of Fact**

- 1. On May 12, 2015, MARK DICKMAN of DICKMAN FARMS INC. filed an application to temporarily change the place of use under Certificates 76984, 84269 and 84271 for a period of 5 years. The Department assigned the application number T-12057.
- 2. Notice of the application for transfer was published on May 19, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. The first right to be temporarily transferred is as follows:

Certificate: 76984 in the name of DICKMAN FARMS INC. (perfected under Permit

S-53120)

Use: IRRIGATION of 16.1 ACRES

Priority Date: JUNE 7, 1990

Rate: 0.2 CUBIC FOOT PER SECOND

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.

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 and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation

season of each year.

Source:

BUTTE CREEK, a tributary of the PUDDING RIVER

#### **Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	l E	WM	31	SW SE	1300 FEET NORTH AND 500 FEET EAST FROM THE S1/4 CORNER OF SECTION 31

#### **Authorized Place of Use:**

	IRRIGATION								
Twp	Twp Rng Mer Sec Q-Q Acre								
5 S	1 E	WM	31	SE SW	3.4				
5 S	1 E	WM	31	SW SE	11.8				
5 S	l E	WM	31	SE SE	0.9				
				Total	16.1				

4. Temporary Transfer Application T-12057 proposes to temporarily change the place of use of the right to:

IRRIGATION								
Twp Rng Mer Sec Q-Q Acres								
5 S	1 E	WM	31	NE SW	16.10			

5. The second right to be temporarily transferred is as follows:

Certificate: 84269 in

84269 in the name of DICKMAN FARMS INC. (perfected under Permit

S-16524)

Use:

**IRRIGATION of 21.9 ACRES** 

**Priority Date:** AUGUST 17, 1945

Rate:

0.28 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each

year.

Source:

BUTTE CREEK, a tributary of the PUDDING RIVER

# **Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	31	SW SE	1300 FEET NORTH AND 500 FEET EAST FROM THE S1/4 CORNER OF SECTION 31

#### **Authorized Place of Use:**

	IRRIGATION								
Twp	Twp Rng Mer Sec Q-Q								
5 S	1 E	WM	31	NE SW	3.4				
5 S	1 E	WM	31	SE SW	18.5				
				Total	21.9				

6. Temporary Transfer Application T-12057 proposes to temporarily change the place of use of the right to:

	IRRIGATION									
Twp	Twp Rng Mer Sec Q-Q Acr									
5 S	1 E	WM	31	NE SW	7.5					
5 S	1 E	WM	31	SE SW	3.5					
5 S	1 E	WM	31	NW SE	1.3					
5 S	1 E	WM	31	SW SE	9.6					
				Total	21.9					

7. The third right to be temporarily transferred is as follows:

Certificate: 84271 in the name of DICKMAN FARMS INC. (perfected under Permit

S-39747)

Use: IRRIGATION of 40.5 ACRES

Priority Date: JULY 11, 1975

Rate: 0.51 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each

vear.

**Source:** BUTTE CREEK, a tributary of the PUDDING RIVER

# **Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 <b>E</b>	WM	31	SW SE	1300 FEET NORTH AND 500 FEET EAST FROM THE S1/4 CORNER OF SECTION 31

# **Authorized Place of Use:**

	IRRIGATION								
Twp Rng Mer Sec Q-Q Acres									
5 S	1 E	WM	31	NE SW	27.0				
5 S	1 E	WM	31	SE SW	2.6				
5 S	1 E	WM	31	NW SE	1.3				
5 S	1 E	WM	31	SW SE	9.6				

8. Temporary Transfer Application T-12057 proposes to temporarily change the place of use of the right to:

	IRRIGATION								
Twp	Twp Rng Mer Sec Q-Q								
5 S	1 E	WM	31	NE SW	6.8				
5 S	1 E	WM	31	SE SW	21.0				
5 S	1 E	WM	31	SW SE	11.8				
5 S	1 E	WM	31	SE SE	0.9				
				Total	40.5				

# Temporary Transfer Review Criteria

- 9. 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.
- 10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
- 11. The proposed changes would not result in enlargement of the rights.
- 12. 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-12057 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-12057 are approved.
- 2. The former place of use **shall not** be irrigated as part of these water rights during the 2015, 2016, 2017, 2018 and 2019 irrigation seasons.
- 3. The use shall revert to the authorized place of use at the end of the 2019 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 76984, 84269 and 84271 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 76984, 84269 and 84271.
- 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.

Dated at Salem, Oregon this 22 day of June, 2015.

Dwight French, Water Right Services Administrator, for

Thomas M. Byler, Director

Oregon Water Resources Department

Mailing Date: JUN 2 4 2015