

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-13467, Polk County)	TEMPORARY 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

GREEN SPRING FARMS
8930 SUVER RD
MONMOUTH, OR 97361

Findings of Fact

1. On June 12, 2020, GREEN SPRING FARMS filed an application to temporarily change the place of use and change the points of diversion to serve the proposed place of use under Certificates 42535 and 89189 for a period of 4 years. The Department assigned the application number T-13467.

2. Notice of the application for transfer was published on June 30, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

3. The portion of the first right to be temporarily transferred is as follows:

Certificate: 42535 in the name of PHILLIP D. & DELIA M. SPERLING (perfected under Permit S-33441)

Use: IRRIGATION of 102.2 ACRES

Priority Date: APRIL 5, 1968

Rate: 1.28 CUBIC FEET PER SECOND (CFS), BEING 0.85 CFS FROM UNNAMED STREAM AND 0.43 CFS FROM LUCKIAMUTE RIVER

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, shall be 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 water to exceed 2.5 ACRE FEET per acre for each acre irrigated during the irrigation season of each year.

Source: AN UNNAMED STREAM AND LUCKIAMUTE RIVER, a tributary of WILLAMETTE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
9 S	4 W	WM	17	NE SW			1000 FEET SOUTH AND 1420 FEET EAST FROM THE NE CORNER OF DLC 61
9 S	4 W	WM	17	SW SE	6		1980 FEET SOUTH AND 1670 FEET EAST FROM THE NE CORNER OF DLC 61
9 S	4 W	WM	18	SE SW	2		2130 FEET SOUTH AND 4280 FEET WEST FROM THE NE CORNER OF DLC 61
9 S	4 W	WM	20	SW NW		63	4500 FEET SOUTH FROM THE NE CORNER OF DLC 61

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
9 S	4 W	WM	17	SW NE		43	28.3
9 S	4 W	WM	17	SE NE		43	3.0
9 S	4 W	WM	17	SE NW	1		1.6
9 S	4 W	WM	17	SE NW		43	2.3
9 S	4 W	WM	17	NE SW			4.8
9 S	4 W	WM	17	SE SW	5		0.7
9 S	4 W	WM	17	NE SE			14.1
9 S	4 W	WM	17	NW SE			34.2
9 S	4 W	WM	17	SW SE	6		9.4
9 S	4 W	WM	17	SE SE	7		3.8
						Total	102.2

4. Temporary Transfer Application T-13467 proposes to temporarily change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
9 S	4 W	WM	29	NE SW			2.5
9 S	4 W	WM	29	NW SW			8.7
9 S	4 W	WM	29	SW SW			8.9
9 S	4 W	WM	29	SW SW	3		22.8
9 S	4 W	WM	29	SE SW			3.4
9 S	4 W	WM	29	SE SW	4		6.6
9 S	4 W	WM	30	SE SE	1		6.1
9 S	4 W	WM	30	SE SE		48	2.2
9 S	4 W	WM	31	NE NE		48	7.1
9 S	4 W	WM	31	NE NE	1		17.0
9 S	4 W	WM	31	NW NE		48	1.7
9 S	4 W	WM	32	NE NW	1		2.6
9 S	4 W	WM	32	NW NW	1		12.6
						Total	102.2

5. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13467 proposes to move the authorized point of diversion approximately 2.1 miles, 1.9 miles, 2.0 miles and 1.4 miles respectively downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	4 W	WM	29	NE SW	1000 FEET NORTH AND 100 FEET WEST FROM THE SE CORNER OF DLC 46

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

Certificate: 89189 in the name of PHILLIP AND DELIA SPERLING (perfected under Permit S-37832)
Use: IRRIGATION of 126.0 ACRES
Priority Date: AUGUST 20, 1973
Rate: 1.58 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, 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: LUCKIAMUTE RIVER tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	4 W	WM	20	SW NW	63	2530 FEET SOUTH AND 30 FEET EAST FROM NW CORNER, DLC 63

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
9 S	4 W	WM	17	SW NW	2		0.7
9 S	4 W	WM	17	SE NW	1		8.0
9 S	4 W	WM	17	NE SW			24.0
9 S	4 W	WM	17	NW SW	3		7.8
9 S	4 W	WM	17	SW SW	4		1.2
9 S	4 W	WM	17	SW SW		63	7.0
9 S	4 W	WM	17	SE SW	5		7.1
9 S	4 W	WM	17	SE SW		63	25.0
9 S	4 W	WM	20	NE NW		63	30.4
9 S	4 W	WM	20	NW NW		63	7.5
9 S	4 W	WM	20	SE NW		63	7.3
Total							126.0

7. Temporary Transfer Application T-13236 proposes to temporarily change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
9 S	4 W	WM	31	SE SE		58	17.0
9 S	4 W	WM	31	SW SE		58	21.9
9 S	4 W	WM	31	NW SE		58	10.3
9 S	4 W	WM	31	NE SE		58	12.3
9 S	4 W	WM	31	SE NE	2		5.0
9 S	4 W	WM	31	NE NE	1		0.1
9 S	4 W	WM	31	NE SE	7		1.8
9 S	4 W	WM	32	SW NW	2		40.0
9 S	4 W	WM	32	NE SW	3		0.7
9 S	4 W	WM	32	NW SW	4		6.5
9 S	4 W	WM	32	SE NW	2		8.7
9 S	4 W	WM	32	NE NW	1		0.3
9 S	4 W	WM	32	NW NW	1		1.4
Total							126.0

8. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13236 proposes to move the authorized point of diversion approximately 1.4 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	4 W	WM	29	NE SW	1,000 FEET NORTH AND 100 FEET WEST FROM THE SE CORNER OF DLC 46

Temporary Transfer Review Criteria

9. Water has been used within the last five years according to the terms and conditions of the rights.
10. A diversion structure and ditch 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 and points of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13467 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.


Now, therefore, it is ORDERED:

1. The temporary change in place of use and change in points of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13467 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2020, 2021, 2022 and 2023 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2023 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 42535 and 89189 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 42535 and 89189.
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, or, with prior approval of the Director, another suitable measuring device, at each points 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 42535 and 89189 shall continue to be in accordance with the terms and conditions of Certificates 42535 and 89189.

NOV 09 2020

Dated in Salem, Oregon on



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

Mailing Date: **NOV 10 2020**