

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13262, Marion County)	TEMPORARY CHANGES IN PLACE
)	OF USE AND POINT OF
)	APPROPRIATION

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

MERTEN FARMS, LLC
PO BOX 261
ST PAUL, OR 97137

Findings of Fact

1. On September 27, 2019, MERTEN FARMS filed an application to temporarily change the place of use and change the point of appropriation to serve the proposed place of use under Certificate 88839 for a period of 5 years. The Department assigned the application number T-13262.
2. Notice of the application for transfer was published on October 8, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 3, 2019, the Department contacted the agent for the applicant regarding a deficiency with the evidence of use provided with the application.
4. On November 18, 2019, the Department met with the applicant and the agent for the applicant in an effort to satisfy the deficiency.
5. On January 24, 2020, the agent for the applicant provided amended application pages and maps satisfying the deficiency and allowing the Department to move forward processing the application.

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.

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

Certificate: 88839 in the name of NEIL MILLER (perfected under Permit G-6447)
Use: IRRIGATION of 2.3 ACRES
Priority Date: MAY 5, 1975
Rate: 0.029 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: A WELL within the MISSION CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	8	NE NE	74	WELL #3 - 490 FEET SOUTH AND 720 FEET WEST FROM THE NE CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	8	NE NE	74	2.3

7. Temporary Transfer Application T-13262 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	9	NE NW	74	0.1
4 S	2 W	WM	9	NW NW	74	1.7
4 S	2 W	WM	9	SW NW	74	0.2
4 S	2 W	WM	9	SE NW	74	0.3
Total						2.3

8. A change in point appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13262 proposes to move the authorized point of appropriation approximately 0.27 mile southeast to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	2 W	WM	9	NW NW	POA 1 - 1000 FEET SOUTH AND 620 FEET EAST FROM THE NW CORNER OF SECTION 9

Temporary Transfer Review Criteria

9. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is 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 right are present.
11. The proposed changes would not result in enlargement of the right.
12. The proposed changes would not result in injury to other water right. 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

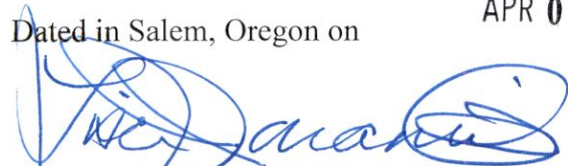
The temporary changes in place of use and point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-13262 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-13262 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2020, 2021, 2022, 2023, and 2024 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2024 irrigation season. The authorization to use the temporary point of appropriation 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 Certificate 88839 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 Certificate 88839.
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 point of appropriation (new and existing).
 - 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 right described by Certificate 88839 shall continue to be in accordance with the terms and conditions of Certificate 88839.

Dated in Salem, Oregon on **APR 09 2020**



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

Mailing Date: **APR 10 2020**