

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

In the Matter of Transfer Application         )         FINAL ORDER APPROVING A  
T-11781, Jefferson 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**

Norton Cattle Co., LLC  
Attn – Thomas Norton, Jr., Managing Member  
PO Box 728  
Madras, OR 97741

**Representative**

Clyde Snow & Sessions  
Attn – Reagan L. B. Desmond, Attorney  
377 SW Century Dr.  
Bend, OR 97702

**Findings of Fact**

1. On April 7, 2014, Norton Cattle Co., LLC, filed an application to temporarily change the place of use under Certificates 75751, 72279, 72281 and 88876 for a period of five years. The Department assigned the application number T-11781.
2. Notice of the application for transfer was published on April 15, 2014, 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:** 75751 in the name of MAPLE LAKE LIVESTOCK CO. INC. and NORTHWEST FARM CREDIT SERVICES (perfected under Permit S-45102)  
**Use:** IRRIGATION of 172.4 acres and SUPPLEMENTAL IRRIGATION of 415.5 acres  
**Priority Date:** APRIL 17, 1980  
**Rate:** 8.25 CUBIC FEET PER SECOND (cfs)  
**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-FORTIETH of one cfs, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 4.0 acre-feet (af) per acre for each acre irrigated during the period from April 1 to September 30 and shall be further limited to a diversion of not to

<p>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.</p>
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exceed 1.5 af per acre for each acre irrigated from October 1 to March 31, provided further that the right shall not exceed 4.0 af for each acre irrigated in any one year. The use of water during the period from October 1 to March 31 as authorized shall not establish priority of right as against future appropriation of surface water for beneficial uses or for storage for such beneficial uses other than similar right for irrigation from October 1 to March 31, provided further that the right allowed for supplemental irrigation shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed.

**Source:** WILLOW CREEK, a tributary of the DESCHUTES RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11 S	14 E	WM	31	SE NE	1440 FEET SOUTH AND 1080 FEET WEST FROM THE NE CORNER OF SECTION 31

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	14 E	WM	28	SW NW	40.00
11 S	14 E	WM	28	NW SW	40.00
11 S	14 E	WM	28	SW SW	16.50
11 S	14 E	WM	29	SW NE	2.60
11 S	14 E	WM	29	SE NE	20.80
11 S	14 E	WM	29	NW NW	5.50
11 S	14 E	WM	29	SW NW	4.50
11 S	14 E	WM	29	SE NW	5.80
11 S	14 E	WM	29	NE SW	3.80
11 S	14 E	WM	29	NW SW	4.40
11 S	14 E	WM	29	SW SW	2.40
11 S	14 E	WM	29	NE SE	23.30
11 S	14 E	WM	29	NW SE	0.50
11 S	14 E	WM	29	SE SE	2.30
<b>Total:</b>					<b>172.40</b>

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	14 E	WM	29	NW NW	16.90
11 S	14 E	WM	29	SW NW	21.90
11 S	14 E	WM	29	SE NW	32.30
11 S	14 E	WM	29	NE SW	35.20
11 S	14 E	WM	29	NW SW	24.20
11 S	14 E	WM	29	SW SW	32.40
11 S	14 E	WM	29	SE SW	40.00
11 S	14 E	WM	29	NW SE	11.20
11 S	14 E	WM	29	SW SE	38.80
11 S	14 E	WM	29	SE SE	2.20
11 S	14 E	WM	31	NE NE	0.50
11 S	14 E	WM	31	SE NE	3.00
11 S	14 E	WM	32	NE NE	1.90
11 S	14 E	WM	32	NW NE	38.60

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	14 E	WM	32	SW NE	6.90
11 S	14 E	WM	32	NE NW	40.00
11 S	14 E	WM	32	NW NW	33.60
11 S	14 E	WM	32	SW NW	19.20
11 S	14 E	WM	32	SE NW	16.70
<b>Total:</b>					<b>415.50</b>

4. Temporary Transfer Application T-11781 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	14 E	WM	28	SW NW	7.70
11 S	14 E	WM	28	NW SW	8.00
11 S	14 E	WM	29	SW NE	8.00
11 S	14 E	WM	29	SE NE	7.00
11 S	14 E	WM	29	SW NW	9.20
11 S	14 E	WM	29	SE NW	6.60
11 S	14 E	WM	29	NE SW	3.30
11 S	14 E	WM	29	NW SW	37.30
11 S	14 E	WM	29	SW SW	10.20
11 S	14 E	WM	29	SE SW	0.10
11 S	14 E	WM	29	NE SE	0.30
11 S	14 E	WM	29	NW SE	5.70
11 S	14 E	WM	29	SW SE	8.80
11 S	14 E	WM	32	NW NE	5.00
11 S	14 E	WM	32	SW NE	5.30
11 S	14 E	WM	32	NE NW	7.00
11 S	14 E	WM	32	SW NW	7.20
11 S	14 E	WM	32	SE NW	35.70
<b>Total:</b>					<b>172.40</b>

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	14 E	WM	28	SW SW	1.90
11 S	14 E	WM	29	SW NE	30.00
11 S	14 E	WM	29	NW NW	5.50
11 S	14 E	WM	29	SW NW	17.70
11 S	14 E	WM	29	SE NW	31.60
11 S	14 E	WM	29	NE SW	35.70
11 S	14 E	WM	29	NW SW	1.10
11 S	14 E	WM	29	SW SW	27.80
11 S	14 E	WM	29	SE SW	38.50
11 S	14 E	WM	29	NW SE	30.30
11 S	14 E	WM	29	SW SE	26.50
11 S	14 E	WM	29	SE SE	33.90
11 S	14 E	WM	32	NE NE	35.30
11 S	14 E	WM	32	NW NE	26.50
11 S	14 E	WM	32	NE NW	30.40
11 S	14 E	WM	32	NW NW	26.10
11 S	14 E	WM	32	SW NW	13.20

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	14 E	WM	32	SE NW	1.50
11 S	14 E	WM	33	NW NW	2.00
<b>Total:</b>					<b>415.50</b>

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

**Certificate:** 72279 in the name of NORTH UNIT IRRIGATION DISTRICT (perfected under Permit S-23196)

**Use:** IRRIGATION of 142.10 acres

**Priority Date:** February 28, 1913

**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-FORTIETH of one cfs, or its equivalent for each acre irrigated and 5.25 af per acre for each acre irrigated during the irrigation season of each year and is further subject to the terms and conditions of the State Engineer's Orders dated January 20, 1955 and February 4, 1955.

**Sources:** DESCHUTES RIVER, WICKIUP RESERVOIR (constructed under Permit R-1677) and HAYSTACK RESERVOIR (constructed under Permit R-1754), tributaries of the COLUMBIA RIVER.

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Description/Measured Distances
17 S	12 E	WM	29	SE NE	Deschutes River - 1700 FEET SOUTH AND 730 FEET WEST FROM THE NE CORNER OF SECTION 29
22 S	9 E	WM	7	SW NE	Wickiup Reservoir
12 S	13 E	WM	27	SW NE	Haystack Reservoir

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	14 E	WM	32	SE NE	0.30
10 S	13 E	WM	23	SW NW	4.40
10 S	13 E	WM	23	NW SW	18.00
11 S	14 E	WM	29	SW NE	37.40
11 S	14 E	WM	29	SE NE	19.20
11 S	14 E	WM	29	SE NW	1.90
11 S	14 E	WM	29	NE SW	0.60
11 S	14 E	WM	29	NE SE	11.80
11 S	14 E	WM	29	NW SE	25.10
11 S	14 E	WM	31	NE NE	0.50
11 S	14 E	WM	31	SE NE	3.00
11 S	14 E	WM	32	NW NW	3.60
11 S	14 E	WM	32	SW NW	16.30
<b>Total:</b>					<b>142.10</b>

6. Temporary Transfer Application T-11781 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	14 E	WM	28	SW NW	30.10
11 S	14 E	WM	28	NW SW	30.90
11 S	14 E	WM	29	SE NE	31.10
11 S	14 E	WM	29	NE SE	32.60
11 S	14 E	WM	32	NW SE	17.40
<b>Total:</b>					<b>142.10</b>

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

**Certificate:** 72281 in the name of NORTH UNIT IRRIGATION DISTRICT (perfected under Permit S-25921)

**Use:** SUPPLEMENTAL IRRIGATION of 142.10 acres

**Priority Date:** June 23, 1955

**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-FORTIETH of one cfs, or its equivalent and 4.0 af for each acre irrigated during the irrigation season of each year.

**Source:** CROOKED RIVER, a tributary of the DESCHUTES RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	13 E	WM	13	SW NE	590 FEET NORTH AND 2790 FEET EAST FROM THE W1/4 CORNER OF SECTION 13

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	14 E	WM	32	SE NE	0.30
10 S	13 E	WM	23	SW NW	4.40
10 S	13 E	WM	23	NW SW	18.00
11 S	14 E	WM	29	SW NE	37.40
11 S	14 E	WM	29	SE NE	19.20
11 S	14 E	WM	29	SE NW	1.90
11 S	14 E	WM	29	NE SW	0.60
11 S	14 E	WM	29	NE SE	11.80
11 S	14 E	WM	29	NW SE	25.10
11 S	14 E	WM	31	NE NE	0.50
11 S	14 E	WM	31	SE NE	3.00
11 S	14 E	WM	32	NW NW	3.60
11 S	14 E	WM	32	SW NW	16.30
<b>Total:</b>					<b>142.10</b>

8. Temporary Transfer Application T-11781 proposes to temporarily change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	14 E	WM	28	SW NW	30.10
11 S	14 E	WM	28	NW SW	30.90
11 S	14 E	WM	29	SE NE	31.10
11 S	14 E	WM	29	NE SE	32.60
11 S	14 E	WM	32	NW SE	17.40
<b>Total:</b>					<b>142.10</b>

9. The fourth right to be temporarily transferred is as follows:

**Certificate:** 88876 in the name of NORTH UNIT IRRIGATION DISTRICT (perfected under Permit S-33954)

**Use:** IRRIGATION of 436.2 acres

**Priority Date:** September 18, 1968

**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-FORTIETH of one cfs, or its equivalent and 3.97 af for each acre irrigated during the irrigation season of each year. This right is further subject to the terms and conditions of (1) a stipulation between North Unit Irrigation District and the Oregon State Game Commission, recorded in Miscellaneous Records of the Water Resources Department at Volume 4, Page 2028, (2) the Interoffice Memo regarding North Unit Irrigation District Water Accounting dated July 12, 1996 recorded in Miscellaneous Records of the Water Resources Department at Volume 9 Pages 225-226 as modified by the Crooked River Minimum Flow Agreement and (3) the agreement between North Unit Irrigation District and the Deschutes River Conservancy referred to as the Crooked River Minimum Flow agreement, recorded in the Miscellaneous Records of the Water Resources Department at Volume 9, Pages 218-224.

**Source:** CROOKED RIVER, a tributary of the DESCHUTES RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	13 E	WM	13	SW NE	590 FEET NORTH AND 2790 FEET EAST FROM THE W 1/4 CORNER OF SECTION 13

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	14 E	WM	28	SW NW	6.8
9 S	14 E	WM	28	NE SW	4.4
9 S	14 E	WM	28	SW SW	4.6
9 S	14 E	WM	28	SE SW	4.6
9 S	14 E	WM	32	NE NE	16.5
9 S	14 E	WM	32	SE NE	2.8
11 S	13 E	WM	25	NW NW	4.1
11 S	14 E	WM	29	NW NW	16.9
11 S	14 E	WM	29	SW NW	22.3
11 S	14 E	WM	29	SE NW	32.3

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	14 E	WM	29	NE SW	35.2
11 S	14 E	WM	29	NW SW	24.2
11 S	14 E	WM	29	SW SW	32.4
11 S	14 E	WM	29	SE SW	40.0
11 S	14 E	WM	29	NW SE	11.2
11 S	14 E	WM	29	SW SE	38.8
11 S	14 E	WM	29	SE SE	2.2
11 S	14 E	WM	32	NE NE	1.8
11 S	14 E	WM	32	NW NE	38.6
11 S	14 E	WM	32	SW NE	6.9
11 S	14 E	WM	32	NE NW	40.0
11 S	14 E	WM	32	NW NW	30.0
11 S	14 E	WM	32	SW NW	2.9
11 S	14 E	WM	32	SE NW	16.7
<b>Total:</b>					<b>436.2</b>

10. Temporary Transfer Application T-11781 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	14 E	WM	28	SW SW	1.9
11 S	14 E	WM	29	SW NE	30.0
11 S	14 E	WM	29	NW NW	26.2
11 S	14 E	WM	29	SW NW	17.7
11 S	14 E	WM	29	SE NW	31.6
11 S	14 E	WM	29	NE SW	35.7
11 S	14 E	WM	29	NW SW	1.1
11 S	14 E	WM	29	SW SW	27.8
11 S	14 E	WM	29	SE SW	38.5
11 S	14 E	WM	29	NW SE	30.3
11 S	14 E	WM	29	SW SE	26.5
11 S	14 E	WM	29	SE SE	33.9
11 S	14 E	WM	32	NE NE	35.3
11 S	14 E	WM	32	NW NE	26.5
11 S	14 E	WM	32	NE NW	30.4
11 S	14 E	WM	32	NW NW	26.1
11 S	14 E	WM	32	SW NW	13.2
11 S	14 E	WM	32	SE NW	1.5
11 S	14 E	WM	33	NW NW	2.0
<b>Total:</b>					<b>436.2</b>

11. Temporary Transfer Application T-11781 proposes to temporarily transfer portions of water rights within the boundaries of North Unit Irrigation District. The district was notified of the proposed temporary transfer and indicated the district did not object to the transfer.

***Temporary Transfer Review Criteria***

12. 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.

13. A pump and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
14. The proposed change would not result in enlargement of the rights.
15. The proposed change 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 change in place of use proposed in Temporary Transfer Application T-11781 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

### **Now, therefore, it is ORDERED:**

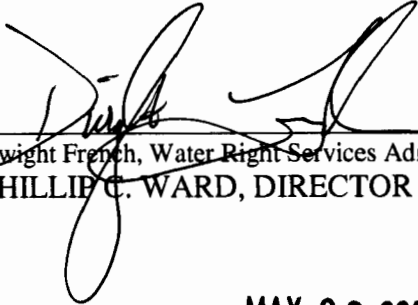
1. The temporary change in place of use proposed in Temporary Transfer Application T-11781 is approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2014, 2015, 2016, 2017 and 2018 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2018 irrigation season.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
5. A subsequent application for permanent transfer of Certificates 75751, 72279, 72281 and 88876 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 75751, 72279, 72281 and 88876.
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 the Willow Creek diversion** (see Finding of Fact #3.)
  - b. The water user shall maintain the meter(s) or measuring device(s) in good working order.
  - c. The water user shall allow the Watermaster access to the meter(s) or measuring device(s); provided however, where the meter(s) or measuring device(s) is/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 72279, 72281 and 88876 shall continue to be in accordance with the terms and conditions of Certificates 72279, 72281 and 88876.

Dated at Salem, Oregon this 17 day of May, 2014.



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Dwight French, Water Right Services Administrator, for  
PHILLIP C. WARD, DIRECTOR

Mailing Date: MAY 23 2014