BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-10915, Malheur 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

Larson Land Co. dba Larson Skyline Farms Partnership Farrell Larson, Partner 4395 Heinze Blvd Ontario, OR 97914

Agent

Steven P. Applegate Consulting 3395 Huckleberry Court S. Salem, OR 97302

Findings of Fact

- 1. On June 29, 2009, Farrell Larson filed an application on behalf of Larson Land Co. (dba Larson Skyline Farms Partnership) to temporarily change the place of use under Certificates 84862. 84863, 84866, 84867 and 85585 for a period of 5 years. The Department assigned the application number T-10915.
- 2. The portion of the first right to be temporarily transferred is as follows:

Certificate:

84862 in the name of Larson Land Co., LLC dba Larson Skyline Farms

Partnership (perfected under Permit S-31231)

Use:

Irrigation of 249.2 acres

Priority Date: June 27, 1966

Rate:

3.296 cubic feet per second

Limit/Duty:

1/75.61 of one cubic foot per second 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:

Snake River, tributary to the Columbia 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.

Authorized Point of Diversion:

Г	Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances		
	17 S	47 E	WM	21	NE NW	1 1	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21		

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	2	NE SW	20.9
17 S	46 E	WM	2	SE SW	16.1
17 S	46 E	WM	2	NW SE	17.4
17 S	46 E	WM	2	SW SE	5.0
17 S	46 E	WM	11	NW NE	11.3
17 S	46 E	WM	11	NE NW	23.0
17 S	46 E	WM	16	NE SW	38.6
17 S	46 E	WM	16	NW SW	38.4
17 S	46 E	WM	16	NE SE	39.1
17 S	46 E	WM	16	NW SE	39.4

3. Temporary Transfer Application T-10915 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	1	SW SW	27.7
17 S	46 E	WM	1	SE SW	23.1
17 S	46 E	WM	1	SW SE	9.5
17 S	46 E	WM	2	NE SE	9.8
17 S	46 E	WM	2	NW SE	2.3
17 S	46 E	WM	2	SE SE	18.0
17 S	46 E	WM	12	NW NE	18.2
17 S	46 E	WM	12	NE NW	39.4
17 S	46 E	WM	12	NW NW	19.5
17 S	46 E	WM	20	NE NE	18.9
17 S	46 E	WM	27	NE SW	26.6
17 S	46 E	WM	27	NW SW	26.4
17 S	46 E	WM	27	NW SE	9.8

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

Certificate: 84863 in the name of Larson Land Co., LLC dba Larson Skyline Farms

Partnership (perfected under Permit S-31231)

Use: Irrigation of 70.7 acres

Priority Date: June 27, 1966

Rate: 0.935 cubic foot per second

Limit/Duty: 1/75.61 of one cubic foot per second 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: Snake River, tributary to the Columbia River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	47 E	WM	21	NE NW		350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	23	SW SW	39.6
17 S	46 E	WM	23	SE SW	30.3
17 S	46 E	WM	23	SW SE	0.8

5. Temporary Transfer Application T-10915 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	26	NW SW	39.2
17 S	46 E	WM	27	NE SE	31.5

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

Certificate: 84866 in the name of Larson Land Co., LLC dba Larson Skyline Farms

Partnership (perfected under Permit S-33944)

Use: Irrigation of 89.6 acres

Priority Date: October 25, 1968

Rate: 1.185 cubic feet per second

Limit/Duty: 1/75.61 of one cubic foot per second 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.

Period of Use: March 1 to October 31 of each year

Source: Snake River, tributary to the Columbia River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances		
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21		

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	21	SW SW	18.4
17 S	46 E	WM	21	SE SW	36.5
17 S	46 E	WM	28	NE NE	16.3
17 S	46 E	WM	28	NE NW	18.4

7. Temporary Transfer Application T-10915 proposes to temporarily change the place of use of the right to:

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Twp	Rng	Mer	Sec	Q-Q	Acres
18 S	46 E	WM	4	SW NE	39.1
18 S	46 E	WM	4	SE NE	40.0
18 S	46 E	WM	4	NW NW	10.5

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

Certificate: 84867 in the name of Larson Land Co., LLC dba Larson Skyline Farms

Partnership (perfected under Permits S-31231, S-33944, S-33945 and S-33946)

Use: Irrigation of 29.8 acres

Priority Date: June 27, 1966 and October 25, 1968

Rate: 0.395 cubic foot per second (cfs), being 0.116 cfs under the June 27, 1966

priority date and 0.279 cfs under the October 25, 1968 priority date

Limit/Duty: 1/75.61 of one cubic foot per second 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: Snake River, tributary to the Columbia River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Q-Q Measured Distances		
17 S	47 E	WM	21	NE NW	350 FEET SOUTH AND 1980 FEET FROM THE NW CORNER OF SECTION 21		

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	10	NW SW	11.6
17 S	46 E	WM	29	NE SE	4.3
17 S	46 E	WM	29	SE SE	13.9

9. Temporary Transfer Application T-10915 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	27	NW SE	12.6
17 S	46 E	WM	34	SW NW	17.2

10. The portion of the fifth right to be temporarily transferred is as follows:

Certificate: 85585 in the name of Larson Land Co., LLC dba Larson Skyline Farms

Partnership (perfected under Permit S-33944)

Use: Irrigation of 80.6 acres

Priority Date: October 25, 1968

Rate: 1.066 cubic feet per second

Limit/Duty: 1/75.61 of one cubic foot per second 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: Snake River, tributary to the Columbia River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	47 E	WM	21	NE NW	1	350 FEET SOUTH AND 1980 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	10	SW SW	5.8
17 S	46 E	WM	10	NE SE	14.7
17 S	46 E	WM	10	NW SE	1.9
17 S	46 E	WM	10	SW SE	5.1
17 S	46 E	WM	11	NW NW	4.9
17 S	46 E	WM	11	NW SW	9.4
17 S	46 E	WM	21	SW NW	9.2
17 S	46 E	WM	21	NW SW	29.6

11. Temporary Transfer Application T-10915 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	46 E	WM	32	SE SE	35.9
17 S	46 E	WM	34	NE NW	4.2
17 S	46 E	WM	34	NW NW	17.9
17 S	46 E	WM	34	SW NW	0.7
18 S	46 E	WM	4	NW NW	21.9

12. Notice of the application for temporary transfer was published on July 14, 2009 pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

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 series of pumps, wheel lines, linears, hand lines and drip systems sufficient to use the full amount of water allowed under the existing rights are present.
- 15. The proposed change would not result in enlargement of the rights.
- 16. 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(6) 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 Transfer Application T-10915 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 Transfer Application T-10915 is approved.
- 2. The former place of use **shall not** be irrigated as part of these water rights during the 2009, 2010, 2011, 2012 and 2013 irrigation seasons.

- 3. The use shall revert to the authorized place of use at the end of the 2013 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 84862, 84863, 84866, 84867 or 85585 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 84862, 84863, 84866, 84867 and 85585.
- 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. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.

Dated at Salem, Oregon this	8 day of	August	, 2009.
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Phillip C. Ward, Director

Mailing Date: AUG 3 1 2009