# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-11579, Wallowa 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**

CORNERSTONE FARMS J.V.
PARTNERSHIP OF TIM MELVILLE
84887 JOSEPH HWY
ENTERPRISE, OR 97828

## **Findings of Fact**

On April 18, 2013, CORNERSTONE FARMS J.V., filed an application to temporarily change the place of use Certificate 62259 and 62262 for a period of 5 years. The Department assigned the application number T-11579.

- 1. Notice of the application for transfer was published on April 30, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 2. On May 10, 2013, the applicant submitted a revised map addressing deficiencies that were identified during processing.
- 3. The portion of the first right to be temporarily transferred is as follows:

Certificate: 62259 in the name of TIM J. MELVILLE (perfected under Permit S-40278)

Use: IRRIGATION of 67.7 ACRES

Priority Date: APRIL 22, 1976

Rate: 1.69 CUBIC FEET 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 a diversion of ONE-FORTIETH 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each

year.

Source: PRAIRIE CREEK within the WALLOWA RIVER BASIN

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

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	45 E	WM	5	SW NE	580 FEET NORTH AND 510 FEET EAST FROM THE CENTER 1/4 CORNER OF SECTION 5

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

	IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres				
1 S	45 E	WM	31	NE SE		11.1				
1 S	45 E	WM	31	SE SE		5.6				
2 S	45 E	WM	6	NE NE	1	24.6				
2 S	45 E	WM	6	NW NE	2	2.8				
2 S	45 E	WM	6	SW NE		1.9				
2 S	45 E	WM	6	SE NE		21.7				

4. Temporary Transfer Application T-11579 proposes to temporarily change the place of use of the right to:

IRRIGATION									
Twp Rng Mer Sec Q-Q Acres Tax Lot									
1 S	44 E	WM	36	NE SE	9.2	3400			
1 S	44 E	WM	36	NW SE	11.0	3400			
1 S	44 E	WM	36	SW SE	24.0	3400			
1 S	44 E	WM	36	SE SE	18.8	3400			
2 S	44 E	WM	1	NE NE	4.70	601			

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

Certificate: 62262 in the name of TIM J. MELVILLE (perfected under Permit S-40577)

Use: IRRIGATION of 20.6 ACRES

Priority Date: JUNE 9, 1976

Rate: 0.45 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-FORTIETH 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each

year.

Source: PRAIRIE CREEK within the WALLOWA RIVER BASIN

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

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	45 E	WM	5	SW NE	580 FEET NORTH AND 510 FEET EAST FROM
					THE CENTER 1/4 CORNER OF SECTION 5

## Authorized Place of Use:

IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres			
1 S	45 E	WM	31	NE SW		6.8			
1 S	45 E	WM	31	NW SW	3	5.4			
1 S	45 E	WM	31	SW SW	4	1.9			
1 S	45 E	WM	31	SE SW		2.7			
2 S	45 E	WM	6	NE NW	3	2.9			
2 S	45 E	WM	6	NW NW	4	0.9			

6. Temporary Transfer Application T-11579 proposes to temporarily change the place of use of the right to:

IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot			
1 S	44 E	WM	36	SE SE	5.0	3400			
2 S	44 E	WM	1	NE NW	2.1	701			
2 S	44 E	WM	1	NE NE	1.7	601			
2 S	44 E	WM	1	SE NW	2.9	701			
2 S	44 E	WM	1	SE NW	2.3	200			
2 S	45 E	WM	6	NW NW	2.1	1501			
2 S .	45 E	WM	6	SW NW	4.5	1501			

## Temporary Transfer Review Criteria

- 7. 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.
- 8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
- 9. The proposed change would not result in enlargement of the rights.
- 10. 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 application Temporary Transfer Application T-11579 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-11579 is approved.
- 2. The former place of use **shall not** be irrigated as part of these water rights during the 2013, 2014, 2015, 2016, 2017 irrigation seasons.
- 3. The use shall revert to the authorized place of use at the end of the 2017 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 62259 and 62262 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 62259.
- 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 use of the remaining water rights described by Certificates 62259 and 62262 shall continue to be in accordance with the terms and conditions of Certificates 62259 and 62262.

Dated at Salem, Oregon this 31 day of May, 2013.

Dwight Flench, Water Right Services Administrator, for

PHILLIP C. WARD, DIRECTOR

Mailing Date: June 7 Z013