

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

In the Matter of Temporary Transfer)	FINAL ORDER
Application T-12836, Morrow County)	APPROVING A TEMPORARY
)	CHANGE IN PLACE OF USE

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

FARMLAND RESERVE, INC.
PO BOX 2308
PASCO, WA 99302

Findings of Fact

1. On February 1, 2018, Farmland Reserve, Inc., filed an application to temporarily change the place of use under Certificate 92992 for a period of five years. The Department assigned the application number T-12836.
2. Notice of the application for transfer was published on February 6, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the right to be temporarily transferred is as follows:

Certificate: 92992 in the name of POTLATCH CORPORATION (perfected under Permit S-37150)
Use: IRRIGATION OF 425.60 ACRES
Priority Date: JULY 25, 1973
Rate: 9.17 CUBIC FEET PER SECOND (CFS), PROVIDED THE TOTAL QUANTITY DIVERTED UNDER THE RIGHTS PERFECTED UNDER PERMIT 37150 DOES NOT EXCEED 140.1 CFS or its equivalent in case of rotation, measured at the point of diversion from the source.

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 ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: COLUMBIA RIVER, a tributary of the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	SOUTH 86°22'46" WEST, 2829 FEET FROM NE CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	1	NE NE	6.32
3 N	26 E	WM	1	NW NE	6.40
3 N	26 E	WM	1	SW NE	6.92
3 N	26 E	WM	1	SE NE	7.24
3 N	26 E	WM	1	NE NW	6.14
3 N	26 E	WM	1	NW NW	6.36
3 N	26 E	WM	1	SW NW	6.29
3 N	26 E	WM	1	SE NW	6.35
3 N	26 E	WM	1	NE SW	5.37
3 N	26 E	WM	1	SE SW	4.93
3 N	26 E	WM	12	NE NW	6.36
3 N	26 E	WM	12	NW NW	5.79
3 N	26 E	WM	12	SW NW	7.74
3 N	26 E	WM	12	SE NW	6.29
3 N	26 E	WM	12	NE SW	6.45
3 N	26 E	WM	12	NW SW	6.98
3 N	26 E	WM	12	SW SW	6.97
3 N	26 E	WM	12	SE SW	7.54
3 N	26 E	WM	12	NE SE	5.52
3 N	26 E	WM	12	NW SE	8.28
3 N	26 E	WM	12	SW SE	7.86
3 N	26 E	WM	12	SE SE	5.10
3 N	27 E	WM	5	NE SW	7.38
3 N	27 E	WM	5	NE SE	1.79
3 N	27 E	WM	5	NW SE	7.72
3 N	27 E	WM	5	SW SE	5.99
3 N	27 E	WM	5	SE SE	6.71
3 N	27 E	WM	6	NE NE	3.89
3 N	27 E	WM	6	NW NE	3.66
3 N	27 E	WM	6	SW NE	5.14
3 N	27 E	WM	6	SE NE	7.47
3 N	27 E	WM	6	NE NW	11.53
3 N	27 E	WM	6	NW NW	4.88
3 N	27 E	WM	6	SW NW	5.94
3 N	27 E	WM	6	SE NW	11.75
3 N	27 E	WM	6	NE SW	8.87

IRRIGATION						Q - Q	Acres
Twp	Range	Mer	Sec	Q - Q	Acres		
3 N	27 E	WM	6	NW SW	9.86		
3 N	27 E	WM	6	SW SW	10.11		
3 N	27 E	WM	6	SE SW	8.11		
3 N	27 E	WM	6	NE SE	7.73		
3 N	27 E	WM	6	NW SE	6.03		
3 N	27 E	WM	6	SW SE	4.28		
3 N	27 E	WM	6	SE SE	7.09		
3 N	27 E	WM	7	NE NE	6.25		
3 N	27 E	WM	7	NW NE	5.67		
3 N	27 E	WM	7	SW NE	6.71		
3 N	27 E	WM	7	SE NE	8.28		
3 N	27 E	WM	7	NE NW	11.2		
3 N	27 E	WM	7	NW NW	8.59		
3 N	27 E	WM	7	SW NW	10.46		
3 N	27 E	WM	7	SE NW	11.63		
3 N	27 E	WM	7	NE SW	11.88		
3 N	27 E	WM	7	NW SW	8.72		
3 N	27 E	WM	7	SW SW	4.01		
3 N	27 E	WM	7	SE SW	11.05		
3 N	27 E	WM	7	NE SE	9.06		
3 N	27 E	WM	7	NW SE	4.65		
3 N	27 E	WM	7	SW SE	3.94		
3 N	27 E	WM	7	SE SE	7.67		
3 N	27 E	WM	9	NE SE	0.42		
3 N	27 E	WM	9	NW SE	0.15		
3 N	27 E	WM	9	SE SE	6.13		
Total					425.60		

4. Transfer Application T-12836 proposes to temporarily change the place of use of the right to:

IRRIGATION						Q - Q	Acres
Twp	Range	Mer	Sec	Q - Q	Acres		
2 N	28 E	WM	5	NE NE	14.21		
2 N	28 E	WM	5	NW NE	13.24		
2 N	28 E	WM	5	SW NE	12.00		
2 N	28 E	WM	5	SE NE	12.15		
2 N	28 E	WM	5	NE NW	32.69		
2 N	28 E	WM	5	NW NW	30.24		
2 N	28 E	WM	5	SW NW	30.28		
2 N	28 E	WM	5	SE NW	30.80		
3 N	28 E	WM	31	NE SW	30.94		
3 N	28 E	WM	31	SE SW	31.97		
3 N	28 E	WM	31	NW SE	30.78		
3 N	28 E	WM	31	SW SE	31.30		
3 N	28 E	WM	32	NE SW	32.22		
3 N	28 E	WM	32	NW SW	30.17		
3 N	28 E	WM	32	SW SW	30.51		
3 N	28 E	WM	32	SE SW	31.95		
3 N	28 E	WM	32	NW SE	0.08		
3 N	28 E	WM	32	SW SE	0.07		
Total					425.60		

5. Temporary Transfer Application T-12836 proposes to temporarily transfer a water right within the boundaries of Columbia Improvement District. The district was notified of the proposed temporary transfer and provided signature certifying that: 1) the applicant has conferred with the district; 2) the district has reviewed the applicant's proposed water right transfer application, and 3) concurs with the transfer application.
6. There is an underlying, stacked primary water right (Permit S-55061) within the place of use described in Finding of Fact #3 (the "FROM" lands). On March 5, 2018, the applicant stated that this portion of water right Permit S-55061 will not be exercised during the term of T-12836, complying with OAR 690-380-8020.
7. There are several underlying, supplemental irrigation rights (Permits S-51017, S-54675 and G-17354) and a stacked primary water right (Permit S-55061) within the place of use described in Finding of Fact #4 (the "TO" lands). On March 5 and March 9, 2018, the applicant stated that these portions of water right permits will not be exercised during the term of T-12836, complying with OAR 690-380-8020.

Temporary Transfer Review Criteria

8. 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.
9. A diversion structure and pumping facility, pipeline, booster pumps and drip irrigation systems sufficient to use the full amount of water allowed under the existing right are present.
10. The proposed change would not result in enlargement of the right. The purpose of the proposed temporary change in place of use is to temporarily transfer water rights from drip irrigated 8 foot strips to irrigated pivots containing row crops. Any use of water outside of the proposed pivots could be readily observed by the Watermaster, thus the need and use of soil moisture monitoring conditions described in the certificates will not be needed to monitor the proposed temporary place of use.
11. 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

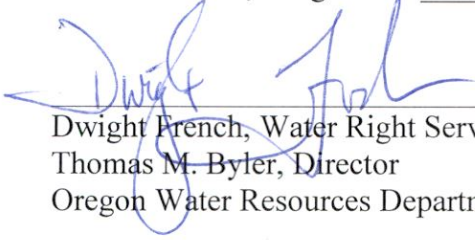
The temporary change in place of use proposed in Temporary Transfer Application T-12836 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary change in place of use proposed in Temporary Transfer Application T-12836 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2018, 2019, 2020, 2021 and 2022 irrigation seasons.
3. The several underlying, supplemental irrigation rights Permits S-51017, S-54675 and G-17354, and a stacked primary water right (Permit S-55061) within the place of use described in Finding of Fact #3 and #4 (both "FROM" and "TO" lands) will not be exercised during the term of T-12836.
4. The use shall revert to the authorized place of use at the end of the 2022 irrigation season.
5. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
6. A subsequent application for permanent transfer of Certificate 92992 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.
7. 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 92992. However, the proposed temporary places of use shall be exempt from conditions requiring soil moisture monitoring.
8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
9. 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 new and existing point of diversion.
 - 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 or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.

10. The use of the remaining water right described by Certificate 92992 shall continue to be in accordance with the terms and conditions of Certificate 92992.

Dated at Salem, Oregon this 22 day of March 2018.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: MAR 26 2018