

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

In the Matter of Transfer Application) **FINAL ORDER APPROVING A**
T-11590, Marion 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

DICKMAN FARMS INC.
15829 MOUNT ANGEL SCOTTS MILLS ROAD NE
SILVERTON, OR 97381

Findings of Fact

1. On May 3, 2013, DICKMAN FARMS INC. filed an application to temporarily change the place of use under Certificate 84269 for a period of five years. The Department assigned the application number T-11590.
2. Notice of the application for transfer was published on May 14, 2013, 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: 84269 in the name of DICKMAN FARMS INC. (perfected under Permit S-16524)
Use: IRRIGATION OF 18.5 ACRES
Priority Date: AUGUST 17, 1945
Rate: 0.23 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.

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.

Source: BUTTE CREEK, a tributary of the PUDDING RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	31	SW SE	1300 FEET NORTH AND 500 FEET EAST FROM THE S¼ CORNER OF SECTION 31

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	31	NE SW	0.5
5 S	1 E	WM	31	SE SW	18.0

4. Temporary Transfer Application T-11590 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	31	NE SW	18.4
5 S	1 E	WM	31	SE SW	0.1

Temporary Transfer Review Criteria

5. Water has been used within the last five years according to the terms and conditions of the right.
6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
7. The application did not indicate any other water right existing on the proposed place of use. However, research of the water rights of record show that Water Right Certificate 84271 exists on the proposed place of use. Certificate 84271, having a more junior priority date from the same source as the right being transferred, cannot be exercised when a more senior right from the same source is used on the land.
8. The proposed change would not result in enlargement of the right.
9. 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-11590 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-11590 is approved.

2. The former place of use **shall not** be irrigated as part of this water right during the 2013, 2014, 2015, 2016 and 2017 irrigation seasons.
3. The water right evidenced by Certificate 84271, appurtenant to the proposed place of use, shall not be used during the term of this temporary transfer.
4. The use shall revert to the authorized place of use at the end of the 2017 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 84269 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 84269.
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. The use of the remaining water right described by Certificate 84269 shall continue to be in accordance with the terms and conditions of Certificate 84269.

Dated at Salem, Oregon this 13 day of June, 2013.



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

Mailing Date: JUL 02 2013