

5. On June 5, 2018, the Department contacted Jerald Bush by written correspondence to notify the applicant and applicant's agent, that submission of a signed statement indicating the supplemental irrigation would not be used on the "FROM" lands covered under Certificate 16641 for the duration of the temporary transfer is required. The Department requested that the deficiency be resolved by July 5, 2018. No response was received to the correspondence.
6. On July 13, 2018, a Final Order denying Transfer Application T-12862 was issued and recorded at Special Order Volume 108, Page 824.
7. On July 27, 2018, the applicant petitioned for reconsideration of the Final Order. The petition was filed within the 60-day period specified by ORS 183.484(2). The applicant also submitted a statement indicating the supplemental irrigation would not be used on the "FROM" lands covered under Certificate 16641 for the duration of the temporary transfer.
8. The Department has reconsidered the order recorded at Special Order Volume 108, Page 824, and has considered the request in the applicant's petition for reconsideration.
9. The portion of the first right to be temporarily transferred is as follows:

Certificate: 16641 in the name of FARREN AND YVONNE F. NELSON (perfected under Permit S-12907)

Use: IRRIGATION

Priority Date: SEPTEMBER 27, 1937

Rate: 1.06 CUBIC FEET 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, shall be limited to ONE-EIGHTIETH 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: PRICE CREEK, a tributary of LUCKIAMUTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
10 S	6 W	WM	27	SW NE

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
10 S	6 W	WM	21	SE SE	44	2.7
10 S	6 W	WM	22	NE SW	44	0.7
10 S	6 W	WM	22	NW SW	44	15.2
10 S	6 W	WM	22	SW SW	44	30.9
10 S	6 W	WM	22	SE SW	44	16.0
10 S	6 W	WM	27	NE NW	44	14.6
10 S	6 W	WM	27	NW NW	44	4.5
Total						84.6

10. Temporary Transfer Application T-12862 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	5 W	WM	17	SW SE	69	1.9
9 S	5 W	WM	19	NE NE		5.3
9 S	5 W	WM	19	NW NE		4.2
9 S	5 W	WM	19	SW NE		4.4
9 S	5 W	WM	19	SE NE		1.1
9 S	5 W	WM	20	NW NE	69	20.5
9 S	5 W	WM	20	SW NE	69	5.5
9 S	5 W	WM	20	NE NW	69	13.6
9 S	5 W	WM	20	SE NW	69	20.9
9 S	5 W	WM	20	SE NW		2.6
9 S	5 W	WM	20	NE SW		1.3
9 S	5 W	WM	20	NE SW	69	3.3
Total						84.6

11. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12862 proposes to move the authorized point of diversion downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Approximate distance from original point of diversion measured in miles
9 S	5 W	WM	19	SW NE		POD 1 - 2050 FEET SOUTH AND 1570 FEET WEST FROM THE NE CORNER OF SECTION 19	14.0 miles
9 S	5 W	WM	17	SW SE	69	POD 2 - 480 FEET NORTH AND 1890 FEET WEST FROM THE NE CORNER OF SECTION 20	15.9 miles

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

Certificate: 33571 in the name of GRACEN L. BUSH (perfected under Permit S-27906)

Use: IRRIGATION of 10.0 ACRES

Priority Date: MARCH 20, 1962

Rate: 0.13 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, shall be limited to ONE-EIGHTIETH 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: LUCKIAMUTE RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
10 S	6 W	WM	29	SE NW	42	225 FEET NORTH AND 3460 FEET WEST FROM THE NE CORNER OF DLC 40

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
10 S	6 W	WM	29	SW NE	42	5.0
10 S	6 W	WM	29	SE NW	42	5.0
Total						10.0

13. Temporary Transfer Application T-12862 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	5 W	WM	20	SE NW	70	3.3
9 S	5 W	WM	20	NE SW	70	6.7
Total						10.0

14. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12862 proposes to move the authorized point of diversion approximately 15.5 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	5 W	WM	17	SW SE	69	POD 2 - 480 FEET NORTH AND 1890 FEET WEST FROM THE NE CORNER OF SECTION 20

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

Certificate: 37073 in the name of GRACEN L. BUSH (perfected under Permit S-30654)

Use: IRRIGATION of 31.7 ACRES

Priority Date: JULY 20, 1965

Rate: 0.33 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, shall be limited to ONE-EIGHTIETH 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: LUCKIAMUTE RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
10 S	6 W	WM	29	SE NW	42	180 FEET NORTH AND 3460 FEET WEST FROM NE CORNER, DLC 40

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
10 S	6 W	WM	29	NW NE	42	11.6
10 S	6 W	WM	29	SW NE	42	6.3
10 S	6 W	WM	29	NE NW	42	7.1
10 S	6 W	WM	29	SE NW	42	6.7
Total						31.7

16. Temporary Transfer Application T-12862 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	5 W	WM	20	NW NW	70	3.3
9 S	5 W	WM	20	SW NW	70	11.5
9 S	5 W	WM	20	SE NW	70	0.7
9 S	5 W	WM	20	NE SW	70	4.0
9 S	5 W	WM	20	NW SW	70	12.2
Total						31.7

17. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12862 proposes to move the authorized point of diversion approximately 15.3 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	5 W	WM	17	SW SE	69	POD 2 - 480 FEET NORTH AND 1890 FEET WEST FROM THE NE CORNER OF SECTION 20

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

Certificate: 76441 in the name of GRACEN L. BUSH (perfected under Permit S-20809)
Use: IRRIGATION of 23.4 ACRES
Priority Date: OCTOBER 12, 1951
Rate: 0.29-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 ONE-EIGHTIETH 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: LUCKIAMUTE RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
10 S	6 W	WM	29	SE NW	42	200 FEET NORTH AND 2950 FEET EAST FROM NW CORNER, WATSON DLC 40; ALLEN DLC 42

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
10 S	6 W	WM	29	NW NE	42	10.5
10 S	6 W	WM	29	SW NE	42	12.9
Total						23.4

19. Temporary Transfer Application T-12862 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	5 W	WM	20	NE NW	70	10.5
9 S	5 W	WM	20	NW NW	70	1.8
9 S	5 W	WM	20	SW NW	70	3.1
9 S	5 W	WM	20	SE NW	70	8.0
Total						23.4

20. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12862 proposes to move the authorized point of diversion approximately 15.3 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	5 W	WM	17	SW SE	69	POD 2 - 480 FEET NORTH AND 1890 FEET WEST FROM THE NE CORNER OF SECTION 20

Temporary Transfer Review Criteria

21. 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.
22. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
23. The proposed changes would not result in enlargement of the rights.
24. The proposed changes 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 changes in place of use and points of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12862 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and change in points of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12862 are approved.
2. The former place of use **shall not** be irrigated as part of these water right(s) during the 2018, 2019, 2020, 2021 and 2022 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2022 irrigation season. The authorization to use the additional point of diversion shall be terminated concurrently.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificates 16641, 33571, 37073, and 76441 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 16641, 33571, 37073, and 76441.
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 each point of diversion (new and existing).
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices 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 16641 and 76441 shall continue to be in accordance with the terms and conditions of Certificates 16641 and 76441.

Dated at Salem, Oregon this AUG 23 2018.



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

Mailing Date: AUG 23 2018