

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-12900, Polk County) 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

DAVE KAUER/KAUER FARMS
7325 SE AMITY-DAYTON HWY
AMITY, OR 97101

Findings of Fact

1. On April 16, 2018, DAVE KAUER/KAUER FARMS filed an application to temporarily change the place of use under Certificate 36427 for a period of 5 years. The Department assigned the application number T-12900.
2. Notice of the application for transfer was published on April 24, 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: 36427 in the name of DR. C. J. MOSER (perfected under Permit S-27996)

Use: IRRIGATION of 18.4 ACRES

Priority Date: APRIL 26, 1962

Rate: 0.23 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: LITTLE LUCKIAMUTE RIVER a tributary of the WILLAMETTE 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:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	5 W	WM	31	NW SW	1250 FEET NORTH AND 870 FEET WEST FROM THE NW CORNER OF BOWMAN DLC 55

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
8 S	6 W	WM	36	SE NE	2		2.2
8 S	6 W	WM	36	SE NE		56	2.6
8 S	6 W	WM	36	NE SE		56	2.1
8 S	6 W	WM	36	NE SE	2		11.5
Total							18.4

4. Temporary Transfer Application T-12900 proposes to temporarily change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
8 S	6 W	WM	36	SW NE		56	3.8
8 S	6 W	WM	36	SE NW		56	0.2
8 S	6 W	WM	36	NE SW		56	3.3
8 S	6 W	WM	36	NE SW		56	0.1
8 S	6 W	WM	36	NW SE		56	6.3
8 S	6 W	WM	36	NW SE		56	0.9
8 S	6 W	WM	36	NE SE	2		2.3
8 S	6 W	WM	36	SE SE			1.5
Total							18.4

Temporary Transfer Review Criteria

- 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.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
- The proposed change would not result in enlargement of the right.
- 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.

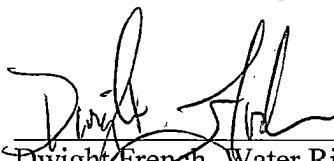
Conclusions of Law

The temporary change in place of use proposed in Temporary Transfer Application T-12900 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-12900 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 use shall revert to the authorized place of use at the end of the 2022 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 Certificate 36427 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 Certificate 36427.
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 meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
9. The use of the remaining water right described by Certificate 36427 shall continue to be in accordance with the terms and conditions of Certificate 36427.

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