

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-12369, Polk County)	TEMPORARY CHANGES IN PLACE
)	OF USE AND AN ADDITIONAL
)	POINT OF DIVERSION

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

GREEN SPRING FARMS
ATTN: ROGER OLSEN
8930 SUVER RD
MONMOUTH, OR 97361

Findings of Fact

1. On May 4, 2016, GREEN SPRING FARMS, ROGER OLSEN, filed an application to temporarily change the place of use and add a point of diversion to serve the proposed place of use under Certificates 43607 and 47649 for a period of five (5) years. The Department assigned the application number T-12369.
2. Notice of the application for transfer was published on May 10, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 6, and 21, 2016, the Department contacted the applicant's agent via email to notify them of deficiencies in the application. The deficiencies being in the acreage being transferred.
4. On June 20 and 30, 2016, the applicant's agent submitted amended application pages and map resolving the deficiencies.

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.

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

Certificate: 43607 in the name of J. W. AUER (perfected under Permit S-34980)
Use: IRRIGATING 6.1 ACRES
Priority Date: APRIL 30, 1970
Rate: 0.08 CUBIC FOOT PER SECOND (CFS)
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 the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	5 W	WM	17	SE SE	69	560 FEET NORTH AND 1090 FEET WEST FROM THE SE CORNER OF SECTION 17

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	5 W	WM	17	SW SE	69	3.60
9 S	5 W	WM	17	SE SE	69	2.50
Total:						6.10

6. Temporary Transfer Application T-12369 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	5 W	WM	16	SW SE	59	0.20
9 S	5 W	WM	16	SE SE	59	3.50
9 S	5 W	WM	21	NE NW	59	1.40
9 S	5 W	WM	21	NE NE	59	1.00
Total:						6.10

7. An additional point of is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12369 proposes an additional point of diversion approximately 1.7 river miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	5 W	WM	16	SW SE	59	POD A2: 100 FEET NORTH AND 1740 FEET WEST FROM THE SE CORNER OF SECTION 16

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

Certificate: 47649 in the name of J.W. AUER (perfected under Permit S-19649)
Use: IRRIGATION of 29.5 ACRES
Priority Date: APRIL 12, 1950
Rate: 0.37 CFS
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 the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	5 W	WM	17	SE SE	69	560 FEET NORTH AND 1090 FEET WEST FROM THE SE CORNER OF SECTION 17

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	5 W	WM	17	SW SE	69	1.60
9 S	5 W	WM	17	SE SE	69	16.30
9 S	5 W	WM	20	NE NE	69	4.00
9 S	5 W	WM	20	NW NE	69	7.60
Total:						29.50

9. Temporary Transfer Application T-12369 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	5 W	WM	15	SW SW	59	2.80
9 S	5 W	WM	16	SW SE	59	0.20
9 S	5 W	WM	21	NE NE	59	16.00
9 S	5 W	WM	21	NE NW	59	0.50
9 S	5 W	WM	21	NW NE	59	2.90
9 S	5 W	WM	22	NW NW	59	7.10
Total:						29.50

10. An additional point of is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12369 proposes an additional point of diversion approximately 1.7 river miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	5 W	WM	16	SW SE	59	POD A2: 100 FEET NORTH AND 1740 FEET WEST FROM THE SE CORNER OF SECTION 16

Temporary Transfer Review Criteria

11. 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.
12. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
13. The proposed changes would not result in enlargement of the rights.

14. 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 additional point of diversion to convey water to the temporary place of use proposed in application Temporary Transfer Application T-12369 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 additional point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12369 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2016, 2017, 2018, 2019 and 2020 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2020 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 43607 and 47649 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 43607 and 47649.
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 right described by Certificate 43607 shall continue to be in accordance with the terms and conditions of Certificate 43607.

Dated at Salem, Oregon this 18 day of July, 2016.



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

Mailing Date: JUL 20 2016