BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11771, 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

CHUCK EDER FARMS, INC. 11580 HOOK ROAD NE MT ANGEL, OR 97362

Findings of Fact

- 1. On March 26, 2014, CHUCK EDER FARMS, INC. filed an application to temporarily change the place of use to serve the proposed place of use under Certificate 33245 for a period of 5 years. The Department assigned the application number T-11771.
- 2. Notice of the application for transfer was published on April 8, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. The right to be temporarily transferred is as follows:

Certificate: 33245 in the name of ALV

33245 in the name of ALVIN SCHAEFER (perfected under Permit

S-19646)

Use: IRRIGATION of 30.0 ACRES

Priority Date: MARCH 8, 1950 for 0.20 CUBIC FOOT PER SECOND (CFS)

OCTOBER 24, 1950 for 0.18 CFS

Rate: 0.38 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

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.

exceed 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source:

BUTTE CREEK a tributary of PUDDING RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	
5 S	1 W	WM	23	SW NW	57	2260 FEET NORTH AND 1890 FEET EAST FROM THE NW CORNER OF LOT 4 (SE1/4 SE1/4) OF SECTION 22	

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	
5 S	1 W	WM	22	SE NE	57	11.0	
5 S	1 W	WM	22	NE SE	57	1.1	
5 S	1 W	WM	23	NW NW	57	0.1	
5 S	1 W	WM	23	SW NW	57	15.3	
5 S	1 W	WM	23	NW SW	57	2.5	
Total							

4. Temporary Transfer Application T-11771 proposes to temporarily change the place of use of the right to:

	IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres		
5 S	1 W	WM	22	SE SE	15.0		
5 S	1 W	WM	23	SW SW	7.7		
5 S	1 W	WM	27	NE NE	7.3		
				Total	30.0		

Temporary Transfer Review Criteria

- 5. Water has been used within the last five years according to the terms and conditions of the Temporary Transfer Application T-11251. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
- 7. The proposed change would not result in enlargement of the right.
- 8. 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-11771 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-11771 is approved.
- 2. The former place of use **shall not** be irrigated as part of this water right during the 2014, 2015, 2016, 2017 and 2018 irrigation seasons.
- 3. The use shall revert to the authorized place of use at the end of the 2018 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 33245 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 33245.
- 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.

Dated at Salem, Oregon this	13	day of	May, 2014.
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Dwight French, Water Right Services Administrator, for

PHILLIP C. WARD, DIRECTOR

Mailing Date: MAY 1 9 2014