

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-12658, Clackamas County	)	TEMPORARY CHANGES IN PLACE
	)	OF USE AND POINT OF
	)	APPROPRIATION

**Authority**

Oregon Revised Statute (ORS) 537.705 and 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 appropriation 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**

SIRI AND SON FARMS  
16410 SE HWY 212  
DAMASCUS, OR 97089

**Findings of Fact**

1. On May 3, 2017, SIRI AND SON FARMS filed an application to temporarily change the place of use and change the point of appropriation to serve the proposed place of use under Certificate 29292 for a period of five years. The Department assigned the application number T-12658.
2. Notice of the application for transfer was published on May 9, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. A deficiency email was sent to the applicant's agent on July 12, 2017. All deficiencies were addressed and resolved on July 12, 2017.
4. The portion of the right to be transferred is as follows:

**Certificate:** 29292 in the name of JEDEDIAH WILLIAM AYLETT (perfected under Permit G-671)  
**Use:** IRRIGATION OF 13.4 ACRES  
**Priority Date:** SEPTEMBER 24, 1957  
**Rate:** 0.06 CUBIC FOOT PER SECOND

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.

**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:** A WELL within the CLACKAMAS RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	3 E	WM	6	SW SE	8 CHAINS [528 FEET] NORTH AND 5 CHAINS [330 FEET] EAST FROM THE S¼ CORNER OF SECTION 6

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	3 E	WM	6	SW SE	13.4

5. Temporary Transfer Application T-12658 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	3 E	WM	31	SE NE	13.4

6. A change in point of appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12658 proposes to move the authorized point of appropriation approximately 1.75 miles north to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	3 E	WM	31	NW NE	528 FEET NORTH AND 594 FEET WEST OF THE CENTER OF THE NE QUARTER OF SECTION 31

7. Temporary Transfer Application T-12658 proposes to temporarily transfer a water right within the boundaries of Sunrise Water Authority. Sunrise Water Authority was notified of the proposed temporary transfer and indicated it did not object to the transfer.

**Temporary Transfer Review Criteria**

8. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
10. The proposed change would not result in enlargement of the right.

11. 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 changes in place of use and point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-12658 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 and point of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-12658 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2017, 2018, 2019, 2020, and 2021 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2021 irrigation season. The authorization to use the temporary point of appropriation 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 Certificate 29292 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 29292.
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 at each point of appropriation.
  - b. The water user shall maintain the meters in good working order.
  - c. The water user shall allow the Watermaster access to the meters; provided however, where the meters are located within a private structure, the Watermaster shall request access upon reasonable notice.

9. The use of the remaining water right described by Certificate 29292 shall continue to be in accordance with the terms and conditions of Certificate 29292.

Dated at Salem, Oregon this 4 day of August, 2017.

  
\_\_\_\_\_  
Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director

Mailing Date: AUG 15 2017