

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

In the Matter of Transfer Application) **FINAL ORDER APPROVING**
T-12467, Benton and Polk Counties) **TEMPORARY CHANGES IN PLACE OF**
) **USE AND POINTS 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

JACK PLATT, PLATT FARMS LLC.
11070 OAK HILL RD
INDEPENDENCE, OR 97351

Findings of Fact

1. On August 31, 2016, JACK PLATT, PLATT FARMS LLC. filed an application to temporarily change the place of use and change the points of diversion to serve the proposed place of use under Certificates 37768, 76441, and 76492 for a period of one (1) year. The Department assigned the application number T-12467.
2. Notice of the application for transfer was published on September 6, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The first right to be temporarily transferred is as follows:
 - Certificate:** 37768 in the name of JACK H. AND CHARLCIE L. COX (perfected under Permit S-10203)
 - Use:** IRRIGATION of 35.5 ACRES
 - Priority Date:** JUNE 2, 1931
 - Rate:** 0.45 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.

<p>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.</p>

Source: LUCKIAMUTE RIVER, a tributary of the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
10 S	6 W	WM	30	SE SE	40	1850 FEET SOUTH AND 280 FEET EAST FROM THE NW CORNER OF WATSON DLC 40

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
10 S	6 W	WM	29	SW NW	40	1.5
10 S	6 W	WM	29	NW SW	40	20.6
10 S	6 W	WM	29	SW SW	40	2.6
10 S	6 W	WM	30	NE SE	40	9.0
10 S	6 W	WM	30	SE SE	40	1.8
Total:						35.5

4. Temporary Transfer Application T-12467 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	4 W	WM	20	NE NE	63	15.4
9 S	4 W	WM	20	NE NE	63	18.5
9 S	4 W	WM	20	SE SE	63	1.6
Total:						35.5

5. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12467 proposes to move the authorized point of diversion downstream approximately 15 miles, respectively, to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	4 W	WM	20	NE NW	63	10 FEET NORTH AND 5680 FEET WEST FROM THE SE CORNER OF DLC 63

6. The second 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 99.1 ACRES

Priority Date: OCTOBER 12, 1951

Rate: 1.24 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, 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 the WILLAMETTE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
10 S	6 W	WM	29	SE NW	40	170 FEET SOUTH AND 2940 FEET EAST FROM THE NW CORNER OF WATSON DLC 40
10 S	6 W	WM	29	SE NW	42	200 FEET NORTH AND 2950 FEET EAST FROM THE NW CORNER OF WATSON DLC 40
10 S	6 W	WM	30	SE SE	40	2200 FEET SOUTH AND 620 FEET EAST FROM THE NW CORNER OF WATSON DLC 40

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Govt Lot	DLC	Acres
10 S	6 W	WM	29	NW NE		42	10.5
10 S	6 W	WM	29	SW NE		42	12.9
10 S	6 W	WM	29	SW NW		40	5.2
10 S	6 W	WM	29	SE NW		40	1.5
10 S	6 W	WM	29	NE SW		40	2.3
10 S	6 W	WM	29	NW SW		40	17.8
10 S	6 W	WM	29	SW SW		40	20.4
10 S	6 W	WM	29	SW SW	3		1.3
10 S	6 W	WM	30	SW NE		41	2.2
10 S	6 W	WM	30	NW SE		41	11.1
10 S	6 W	WM	30	NE SE		40	12.7
10 S	6 W	WM	30	SE SE		40	1.2
Total:							99.1

7. Temporary Transfer Application T-12467 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	4 W	WM	17	SW SE	63	26.5
9 S	4 W	WM	17	SE SE	63	26.5
9 S	4 W	WM	20	NE NE	63	2.7
9 S	4 W	WM	20	NE NE	63	3.4
9 S	4 W	WM	20	NW NE	63	40.0
Total:						99.1

8. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12467 proposes to move the authorized points of diversion approximately 15 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	4 W	WM	20	NE SW	63	10 FEET NORTH AND 5680 FEET WEST FROM THE SE CORNER OF DLC 63

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

Certificate: 76492 in the name of GRACEN L. BUSH (perfected under Permit S-12122)
Use: IRRIGATION of 14.4 ACRES
Priority Date: APRIL 9, 1936

Rate: 0.18 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 the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
10 S	6 W	WM	30	SE SE	40	2200 FEET SOUTH AND 620 FEET EAST FROM THE NW CORNER OF WATSON DLC 40

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
10 S	6 W	WM	30	NE SE	41	14.4

10. Temporary Transfer Application T-12467 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	4 W	WM	20	NE NE	63	7.9
9 S	4 W	WM	20	NW NE	63	6.5
Total:						14.4

11. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12467 proposes to move the authorized point of diversion approximately 15 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	4 W	WM	20	NE SW	63	10 FEET NORTH AND 5680 FEET WEST FROM THE SE CORNER OF DLC 63

12. There are existing water rights on the proposed places of use.

Temporary Transfer Review Criteria

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

16. The proposed changes as conditioned 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 places of use and points of diversion to convey water to the temporary places of use proposed in Temporary Transfer Application T-12467 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in places of use and points of diversion to convey water to the temporary places of use proposed in Temporary Transfer Application T-12467 are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the 2016 irrigation season.
3. 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(s) or measuring device(s) in good working order.
 - c. The water user shall allow the Watermaster access to the meter(s) or measuring device(s), provided however, where the meter(s) or measuring device(s) is/are located within a private structure, the Watermaster shall request access upon reasonable notice.
4. Any other water rights existing on the temporary places of use authorized in this transfer shall not be exercised during the term of this temporary transfer.
5. The use shall revert to the authorized place of use at the end of the 2016 irrigation season. The authorization to use the temporary points of diversion shall be terminated concurrently.
6. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
7. A subsequent application for permanent transfer of Certificates 37768, 76441, and 76492 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.
8. 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 37768, 76441, and 76492.

9. 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 7 day of October, 2016.



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

Mailing Date: OCT 17 2016