

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-12321, Clackamas 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

CAL FARMS, INC.
ATTN: AMBROSE CALCAGNO
PO BOX 796
OREGON CITY, OR 97045

Findings of Fact

1. On March 24, 2016, Cal Farms Inc. filed an application to temporarily change the place of use under Certificate 38799. The Department assigned the application number T-12321.
2. It was initially unclear what the applicant intended for the duration of this Transfer, however on May 27, 2016, the agent clarified in an email the intended duration of the transfer was five years.
3. Notice of the application for transfer was published on April 5, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. The portion of the first right to be temporarily transferred is as follows:
Certificate: 38799 in the name of ELMORE MOSTUL (perfected under Permit S-28846)
Use: IRRIGATION of 23.0 ACRES
Priority Date: MAY 22, 1963
Rate: 0.29 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 a diversion of ONE-EIGHTIETH of one cubic foot per second, or its

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.

equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2 1/2 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: CLACKAMAS RIVER tributary of the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	3 E	WM	20	SW NE	30 FEET NORTH AND 1550 FEET WEST FROM NE CORNER, DLC 40

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
2 S	3 E	WM	20	SW NE	40	2.8
2 S	3 E	WM	20	SE NE	40	12.3
2 S	3 E	WM	20	NE SE	40	4.7
2 S	3 E	WM	20	NW SE	40	3.2
Total:						23.0

5. Temporary Transfer Application T-12321 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
2 S	3 E	WM	20	SW NE	40	0.10
2 S	3 E	WM	20	SW NW	40	1.0
2 S	3 E	WM	20	SE NW	40	16.2
2 S	3 E	WM	20	NE SW	40	5.7
Total:						23.0

Temporary Transfer Review Criteria

6. 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.
7. A diversion structure, a pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
8. The proposed change as conditioned would not result in enlargement of the right.
9. 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

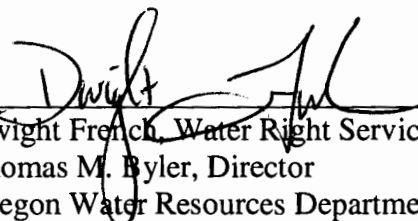
The temporary change in place of use proposed in Temporary Transfer Application T-12321 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary change in place of use proposed in Temporary Transfer Application T-12321 is approved.

2. The former place of use **shall not** be irrigated as part of this water right 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.
4. 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(s) or measuring device(s); provided however, where the meter(s) or measuring device(s) are located within a private structure, the Watermaster shall request access upon reasonable notice.
5. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
6. A subsequent application for permanent transfer of Certificate 38799 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.
7. 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 38799.
8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
9. The use of the remaining water right described by Certificate 38799 shall continue to be in accordance with the terms and conditions of Certificate 38799.

Dated at Salem, Oregon this 7 day of June, 2016.



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

Mailing Date: JUN 10 2016