

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

In the Matter of Transfer Application)
T-12019, Polk County)
)
) **FINAL ORDER APPROVING
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

**OLSEN AGRICULTURAL ENTERPRISES
8930 SUVER RD
MONMOUTH, OR 97361**

Findings of Fact

1. On March 30, 2015, OLSEN AGRICULTURAL ENTERPRISES filed an application to temporarily change the place of use and to change the point of diversion to serve the proposed place of use under Certificate 10645 and 22676 for a period of four (4) years. The Department assigned the application number T-12019.
2. Notice of the application for transfer was published on April 7, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On July 10, 2014, Temporary Transfer T-11826 was approved (Special Order Volume 95, pages 992-997). That temporary transfer involved a portion of the same place of use and points of diversion described in this application and is in effect for five years, ending at the end of the 2018 irrigation season or until terminated by order of the Department.

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.

4. On March 30, 2015, the Department received a letter from OLSEN AGRICULTURAL ENTERPRISES requesting to terminate Temporary Transfer T-11825 upon approval of Temporary Transfer T-12019.
5. The portion of the first right to be temporarily transferred is as follows:

Certificate: 10645 in the name of ERNEST ZIELESCH (perfected under Permit S-8689)

Use: IRRIGATION of 101.2 ACRES

Priority Date: SEPTEMBER 19, 1928

Rate: 1.26 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre.

Source: LUCKIAMUTE RIVER, a tributary of WILLAMETTE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q
9 S	4 W	WM	20	NE SW
9 S	4 W	WM	29	NW NW

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	4 W	WM	20	SW SW	10.0
9 S	4 W	WM	20	SE SW	31.2
9 S	4 W	WM	29	NE NW	40.0
9 S	4 W	WM	29	NW NW	20.0
Total acres:					101.2

6. Temporary Transfer Application T-12019 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	30	SE SE	46	2.2
9 S	4 W	WM	30	SE SE		6.6
9 S	4 W	WM	31	NE NE	46	7.6
9 S	4 W	WM	31	NE NE		19.0
9 S	4 W	WM	31	NW NE	46	1.9
9 S	4 W	WM	31	SW NE		6.6
9 S	4 W	WM	31	SW NE	46	12.0
9 S	4 W	WM	31	SE NE		24.0
9 S	4 W	WM	31	SE NE	46	12.0
9 S	4 W	WM	31	NE SE		5.7
9 S	4 W	WM	31	NW SE		3.6
Total acres:						101.2

7. A change in points of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12019 proposes to move the authorized points of diversion downstream approximately 1.0 and 1.1 miles at:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	4 W	WM	29	NE SW	46	PPOD 1: 1000 FEET NORTH AND 100 FEET WEST FROM THE SE CORNER OF DLC 46
9 S	4 W	WM	30	NE SE	46	PPOD 2: 1640 FEET NORTH AND 125 FEET WEST FROM THE SE CORNER OF SECTION 30

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

Certificate: 22676 in the name of E. H. LORENCE (perfected under Permit S-19640)

Use: IRRIGATION of 7.5 ACRES

Priority Date: DECEMBER 9, 1949

Rate: 0.09 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 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 WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC
9 S	5 W	WM	24	NE NW	62

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	5 W	WM	24	NW NW	62	7.5

9. Temporary Transfer Application T-12019 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	4 W	WM	31	SE NE	4.2
9 S	4 W	WM	31	NE SE	3.3

10. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12019 proposes to move the authorized point of diversion downstream approximately 2.5 miles to PPOD 1 and 2.3 miles to PPOD 2 at:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	4 W	WM	29	NE SW	46	PPOD 1: 1000 FEET NORTH AND 100 FEET WEST FROM THE SE CORNER OF DLC 46
9 S	4 W	WM	30	NE SE	46	PPOD 2: 1640 FEET NORTH AND 125 FEET WEST FROM THE SE CORNER OF SECTION 30

11. Before Temporary Transfer T-12019 can be approved, Temporary Transfer T-11826 must expire or be terminated by order of the Department.

Temporary Transfer Review Criteria

12. 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.
13. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
14. The proposed changes would not result in enlargement of the rights.
15. 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

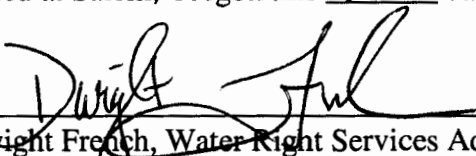
The temporary changes in place of use and points of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12019 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. Temporary Transfer T-11826 is terminated. The Final Order entered at Special Order Volume 95, pages 992-997 is of no further force or effect.
2. The temporary changes in place of use and points of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12019 are approved.
3. The former place of use **shall not** be irrigated as part of these water rights during the 2015, 2016, 2017, and 2018 irrigation seasons.

4. The use shall revert to the authorized place of use at the end of the 2018 irrigation season. The authorization to use the additional points of diversion shall be terminated concurrently.
5. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
6. A subsequent application for permanent transfer of Certificates 10645 and 22676 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 Certificates 10645 and 22676.
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 rights described by Certificates 10645 and 22676 shall continue to be in accordance with the terms and conditions of Certificates 10645 and 22676.

Dated at Salem, Oregon this 11 day of May, 2015.



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

Mailing Date: MAY 13 2015