

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

In the Matter of Transfer Application            )            FINAL ORDER APPROVING A TEMPORARY  
T-13892, Clackamas County                    )            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 January 12, 2022, CAL FARMS INC. filed an application to temporarily change the place of use Certificate 38799 for a period of 5 years. The Department assigned the application number T-13892.
2. Notice of the application for transfer was published on January 25, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the right to be temporarily transferred is as follows:  
**Certificate:** 38799 in the name of ELMORE MOSTUL (perfected under Permit S-28846)  
**Use:** IRRIGATION of 17.9 ACRES  
**Priority Date:** MAY 22, 1963  
**Rate:** 0.22 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:** CLACKAMAS RIVER a tributary of WILLAMETTE RIVER

**Authorized Point of Diversion:**

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

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
2 S	3 E	WM	20	NE SE	40	2.1
2 S	3 E	WM	20	NW SE	40	0.3
2 S	3 E	WM	20	SW SE	40	8.1
2 S	3 E	WM	20	SE SE	40	7.4
					Total	17.9

4. Temporary Transfer Application T-13892 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
2 S	3 E	WM	20	SW NE	40	0.1
2 S	3 E	WM	20	SW NW	40	0.9
2 S	3 E	WM	20	SE NW	40	15.7
2 S	3 E	WM	20	NE SW	40	1.2
					Total	17.9

**Temporary Transfer Review Criteria**

- 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.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
- The proposed change would prevent the lands from which the water right is removed during the period of the temporary transfer from receiving water under the transferred right, as required by ORS 540.523(7).
- 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-13892 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-13892 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2022, 2023, 2024, 2025, and 2026 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2026 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 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.
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 38799.
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. 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 in Salem, Oregon on

**APR 05 2022**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M BYLER, DIRECTOR  
Oregon Water Resources Department

Mailing Date:

**APR 06 2022**