BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11578, Morrow County)	TEMPORARY CHANGE IN PLACE
)	OF USE

Authority

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

TIM RUST 77252 MADER RUST LANE ECHO, OR 97826 Agent

WILLIAM I. PORFILY PO BOX 643

STANFIELD, OR 97875

Findings of Fact

 On April 17, 2013, Tim Rust filed an application to temporarily change the place of use under Certificates 74795 and 31096 and water use Permit S-46499 for a period of five years. The Department assigned the application number T-11578.

2. The primary right and its two layered supplemental water rights to be temporarily transferred are as follows:

Certificate:

74795 in the name of SUCCESSORS IN INTEREST TO M. S. CORRIGAL

(confirmed by the Butter Creek Decree)

Use:

IRRIGATION of 10.0 ACRES

Priority Date:

1904

Rate:

0.20 CUBIC FOOT PER SECOND (cfs)

Source:

BUTTER CREEK, a tributary to UMATILLA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q Survey Coordinates	
2 N	27 E	WM	28	SE NE	POD #2 - 20 FEET NORTH AND 40 FEET WEST FROM THE W1/4 CORNER OF SECTION 27

Certificate:

31096 in the name of ED TUCKER (TUCKER ECHO RANCH) (perfected under

Permit U-450)

Use:

SUPPLEMENTAL IRRIGATION of 10.0 ACRES

Priority Date:

MAY 7, 1952

Rate:

0.11 cfs

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, is limited to a diversion of ONE-

EIGHTIETH of one cubic foot per second, not to exceed 3 acre-feet per acre during

the irrigation season of each year

Source: A WELL within BUTTER CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates	
2 N	27 E	WM	28	SE NE	280 FEET NORTH AND 50 FEET WEST	
					FROM THE E1/4 CORNER OF SECTION 28	

Permit: S-46499 in the name of JOHN MADISON, AGENT for FRANK MADER,

OWNER (filed under Application S-57999)

Use: SUPPLEMENTAL IRRIGATION of 10.0 ACRES

Priority Date: OCTOBER 16, 1978

Rate: 0.20 cfs

Limit/Duty: 1/50 cfs per acre, not to exceed 1.0 acre-foot per acre during the period from

September 2 to December 30, provided further that the right together with the amount secured under any other right shall not exceed 4.0 acre-feet per acre during

the irrigation season of each year.

Source: BUTTER CREEK, tributary to the UMATILLA RIVER

Season of Use: September 2 – December 30

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates	
2 N	27 E	WM	28	SE NE	DIVERSION P - 20 FEET NORTH AND 40 FEET WEST FROM THE W1/4 CORNER OF SECTION 27	

Authorized Places of Use:

IRRIGATION (IR) - SUPPLEMENTAL IRRIGATION (IS)							
Т	Twp Rng Mer Sec	0.0	Certificate (Acres)				
1 WP		Mer	Sec	Q-Q	74795 (IR)	31096 (IS)	Per#46499 (IS)
2 N	27 E	WM	28	SW NE	3.8	3.8	3.8
2 N	27 E	WM	28	SE NE	6.2	6.2	6.2

3. Temporary Transfer Application T-11578 proposes to temporarily change the places of use of the above described rights to:

IRRIGATION (IR) - SUPPLEMENTAL IRRIGATION (IS)							
Т	Town Date Man	Man	Sec	Q - Q	Certificate (Acres)		
Twp Rn	Rng	Mer			74795 (IR)	31096 (IS)	Per [#] 46499 (IS)
2 N	27 E	WM	28	SW NE	10.0	10.0	10.0

4. Notice of the application for transfer was published on April 30, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

Temporary Transfer Review Criteria

5. 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.

- 6. Pumps, pipeline, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
- 7. The proposed changes, as conditioned, would not result in enlargement of the rights.
- 8. The proposed change, 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(6) 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 application Temporary Transfer Application T-11578 are 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-11578 is approved.
- 2. The former place of use **shall not** be irrigated as part of these water rights during the 2013, 2014, 2015, 2016, and 2017 irrigation seasons.
- 3. The use shall revert to the authorized place of use at the end of the 2017 irrigation season.
- 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 Certificates 74795 and 31096 and water use Permit S-46499 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 all other terms and conditions of Certificates 74795 and 31096 and water use Permit S-46499.
- 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 water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.

Dated at Salem, Oregon this 31 day of May, 2013.

Dwight French, Water Right Services Administrator, for

PHILLIPIC. WARD, DIRECTOR

Mailing Date: JUNE 7 2013