

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

In the Matter of Transfer Application)	FINAL ORDER DENYING A
T-11114, Clackamas 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

SIRI AND SON FARMS
16410 SE HWY 212
DAMASCUS, OR 97089

Findings of Fact

1. On August 2, 2010, SIRI AND SON FARMS filed an application to temporarily change the place of use under Certificate 56661 for a period of 5 years. The Department assigned the application number T-11114.

2. The first right to be temporarily transferred is as follows:

- Certificate:** 56661 in the name of LEE SCHWEIZER (perfected under Permit S-44666)
- Use:** IRRIGATION of 14.3 ACRES
- Priority Date:** JUNE 25, 1979
- 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 a diversion of ONE-EIGHTIETH of one cubic foot per second, 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:** ROCK CREEK, tributary to the CLACKAMAS RIVER

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.

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	2 E	WM	12	SW NE	1400 FEET SOUTH AND 1700 FEET WEST FROM THE NE CORNER OF SECTION 12

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	2 E	WM	12	SE NE	14.3

3. Temporary Transfer Application T-11114 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
2 S	2 E	WM	12	NE NE	200	14.3

4. Notice of the application for transfer was published on August 10, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. Evidence of use was not submitted with the transfer application.
6. Consent to transfer from deeded owners was not submitted with the transfer application.
7. The Department repeatedly requested this information from the applicant but has not received the necessary documents.
8. On September 10, 2010, the Department mailed a copy of the draft Final Order to deny Transfer Application T-11114 to the applicant. The draft Final Order set forth a deadline of October 11, 2010 for the applicant to provide the evidence of use and consent to transfer from the deeded landowners. The applicant did not respond by the deadline.

Temporary Transfer Review Criteria

9. No evidence of use was submitted with the transfer application as required by ORS 540.520(2)(a) and OAR 690-380-3000. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
11. The proposed change would not result in enlargement of the right.
12. 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(6) if the Department later finds that the transfer is causing injury to any existing water right.


Conclusions of Law

Temporary Transfer Application T-11114 does not meet the requirements of ORS Chapter 540, OAR 690-15-060 and OAR 690-380-3000 for completeness and cannot be processed. Therefore, the change in place of use proposed in Temporary Transfer Application T-11114 is NOT consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. Temporary Transfer Application T-11114, in the name of Siri and Son Farms, is denied.

Dated at Salem, Oregon this 15 day of October, 2010.



Dwight French, for
PHILIP C. WARD, DIRECTOR

OCT 18 2010
Mailing Date: _____