

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-12152, Clackamas County)	TEMPORARY CHANGES 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

INCHINNAN FARM LLC.
15700 SW WILSONVILLE RD
WILSONVILLE, OR 97070

Findings of Fact

1. On September 1, 2015, INCHINNAN FARM LLC. filed an application to temporarily change the place of use under Certificates 14510 and 34116 for a period of FIVE (5) years. The Department assigned the application number T-12152.
2. Notice of the application for transfer was published on September 15, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 21, and 28, 2015, the Department attempted to contact the applicant. On October 6, 2015, the Department contacted the applicant via email to notify them of a deficiency in the application. Notably, the names on the deed are not the same as that on the application.
4. On October 7, 2015, the applicant submitted the current recorded deed, resolving the deficiency.
5. The portion of the first right to be temporarily transferred is as follows:

Certificate: 14510 in the name of GRACE N. WILLIAMS (perfected under Permit S-14706)

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.

Use: IRRIGATION of 13.8 ACRES
Priority Date: DECEMBER 5, 1940
Rate: 0.17 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: WILLAMETTE RIVER, a tributary of the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Additional Description
3 S	1 W	WM	29	SW SE	41	Within Frederick W. Geer DLC 41

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	1 W	WM	29	NE SW	41	9.50
3 S	1 W	WM	29	SW SW	41	1.90
3 S	1 W	WM	29	SE SW	41	2.40
Total:						13.80

6. Certificate 14510 does not describe the measured distances of the point of diversion, however the applicant has provided information further describing the point of diversion as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	1 W	WM	29	SW SE	41	4040 FEET SOUTH AND 1280 FEET EAST FROM MOST NORTHERLY CORNER OF DLC 41

7. Temporary Transfer Application T-12152 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	1 W	WM	29	NW SW	10.25
3 S	1 W	WM	30	NE SE	1.35
3 S	1 W	WM	32	NW NW	2.20
Total:					13.80

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

Certificate: 34116 in the name of JAMES MCDONALD (perfected under Permit S-30058)
Use: IRRIGATION of 29.7 ACRES
Priority Date: SEPTEMBER 22, 1964
Rate: 0.37 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: WILLAMETTE RIVER, a tributary of COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	1 W	WM	29	SW SE	41	4040 FEET SOUTH AND 1280 FEET EAST FROM MOST NORTHERLY CORNER OF DLC 41

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	1 W	WM	29	SW NW	41	0.20
3 S	1 W	WM	29	NE SW	41	10.70
3 S	1 W	WM	29	NW SW	41	15.80
3 S	1 W	WM	29	SW SW	41	2.40
3 S	1 W	WM	29	SE SW	41	0.60
Total:						29.70

9. Temporary Transfer Application T-12152 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	1 W	WM	29	SW SW	18.50
3 S	1 W	WM	30	SE SE	9.20
3 S	1 W	WM	31	NE NE	2.00
Total:					29.70

Temporary Transfer Review Criteria

10. 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.
11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
12. The proposed changes would not result in enlargement of the rights.
13. 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.

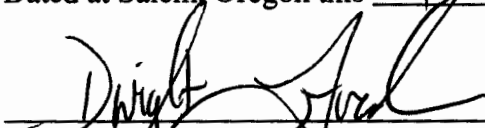
Conclusions of Law

The temporary changes in place of use proposed in application Temporary Transfer Application T-12152 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use proposed in Temporary Transfer Application T-12152 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights 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. 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 14510 and 34116 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 Certificates 14510 and 34116.
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 rights described by Certificates 14510 and 34116 shall continue to be in accordance with the terms and conditions of Certificates 14510 and 34116.

Dated at Salem, Oregon this 19 day of October, 2015.



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

Mailing Date: OCT 20 2015