

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11902, Washington County)	TEMPORARY CHANGE IN PLACE OF
)	USE AND POINT 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

BAGGENSTOS FARMS, INC.
15801 SW ROY ROGERS RD
SHERWOOD, OR 97140

Findings of Fact

1. On October 6, 2014, JOHN A BAGGENSTOS filed an application to temporarily change the place of use and change the point of diversion to serve the proposed place of use under Certificate 23580 for a period of 1 year. The Department assigned the application number T-11902.
2. Notice of the application for transfer was published on October 14, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 22, 2015 the Department informed the applicant that additional information was needed. Specifically, that the water right certificate identified to be transferred (Certificate 55969) did not match the authorized place of use or point of diversion described in the transfer application. Additionally, the ownership information identified an additional landowner for which consent to transfer the water right was required. The Department requested that the application be amended to reflect the intended changes by February 23, 2015.

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 February 6, 2015, the applicant requested the application be amended to transfer Certificate 23580.
5. On February 17, 2015, the applicant provided sufficient information to the Department to resolve the deficiencies.
6. Notice of the amended application for transfer was published on February 17, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. The portion of the right to be temporarily transferred is as follows:

Certificate: 235080 in the name of JOHN A BAGGENSTOS (perfected under Permit S-21065)
Use: IRRIGATION of 18 ACRES
Priority Date: JANUARY 30, 1952
Rate: 0.23 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: TUALATIN RIVER within the WILLAMETTE RIVER BASIN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	1 W	WM	7	SW SW	1300 FEET NORTH AND 650 FEET EAST OF THE SW CORNER OF SECTION 7

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	1 W	WM	7	NE SE	18.0

8. Temporary Transfer Application T-11902 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	1 W	WM	19	SE SW	18.00

9. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-11902 proposes to move the authorized point of diversion approximately 3.25 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	1 W	WM	19	NE NW	434 FEET SOUTH AND 2232 FEET EAST OF THE NW CORNER OF SECTION 19

10. Temporary Transfer Application T-11902 proposes to temporarily transfer a water right within the boundaries of Tualatin Valley Irrigation District. The district was notified of the proposed temporary transfer and did not provide any comments.

Temporary Transfer Review Criteria

11. 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.
12. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
13. The proposed changes would not result in enlargement of the right.
14. 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 point of diversion to convey water to the temporary place of use proposed in application Temporary Transfer Application T-11902 is 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 and point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-11902 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2015 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2015 irrigation season. The authorization to use the additional point of diversion shall be terminated concurrently.
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 Certificate 23580 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 23580.

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 23580 shall continue to be in accordance with the terms and conditions of Certificate 23580.

Dated at Salem, Oregon this 23 day of March, 2015.



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

Mailing Date: MAR 25 2015