

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

In the Matter of Transfer Application)
T-12657, Umatilla County)
)
) FINAL ORDER APPROVING A
) TEMPORARY 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

ST HILAIRE BROTHERS HERMISTON FARM LLC
84186 HIGHWAY 37
HERMISTON, OR 97838

Findings of Fact

1. On May 1, 2017, ST HILAIRE BROTHERS HERMISTON FARM LLC filed an application to temporarily change the place of use under Certificate 88069 for a period of two years. The Department assigned the application number T-12657.
2. Notice of the application for transfer was published on May 9, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 22, 2017, the Department received an amended application and application map from the applicants agent..

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

Certificate: 88069 in the name of ST HILAIRE BROTHERS HERMISTON FARM, LLC (perfected under Permit S-36418)

Use: IRRIGATION OF 308.2 ACRES

Priority Date: AUGUST 17, 1972

Rate: 4.58 CUBIC FEET 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 a

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.
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diversion of ONE SIXTY-SEVENTH (1/67) 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 3.25 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: COLUMBIA RIVER a tributary of the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	2920 FEET NORTH AND 150 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	30 E	WM	22	NE NW	33.2
5 N	30 E	WM	22	NW NW	32.5
5 N	30 E	WM	22	SW NW	34.4
5 N	30 E	WM	22	SE NW	30.8
5 N	30 E	WM	22	NE SW	33.3
5 N	30 E	WM	22	NW SW	33.7
5 N	30 E	WM	22	SW SW	34.1
5 N	30 E	WM	22	SE SW	30.9
5 N	30 E	WM	27	SW SE	0.3
5 N	30 E	WM	27	SE SE	2.8
5 N	30 E	WM	34	NE NE	30.0
5 N	30 E	WM	34	NW NE	11.2
5 N	30 E	WM	34	SW NE	0.1
5 N	30 E	WM	34	SE NE	0.9
Total					308.2

5. Temporary Transfer Application T-12657 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	30 E	WM	14	NW NE	19.7
5 N	30 E	WM	14	SW NE	30.2
5 N	30 E	WM	14	NE NW	14.3
5 N	30 E	WM	14	SE NW	1.0
5 N	30 E	WM	14	NW SE	0.8
5 N	30 E	WM	13	NE NE	31.9
5 N	30 E	WM	13	NW NE	1.1
5 N	30 E	WM	13	SW NE	1.2
5 N	30 E	WM	13	SE NE	34.0
5 N	30 E	WM	13	NW NE	25.6
5 N	30 E	WM	13	SW NE	25.3
5 N	30 E	WM	13	NE NW	33.8
5 N	30 E	WM	13	NW NW	26.7
5 N	30 E	WM	13	SW NW	28.3
5 N	30 E	WM	13	SE NW	34.3
Total					308.2

Temporary Transfer Review Criteria

6. 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.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
8. The proposed change would not result in enlargement of the right.
9. 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 application Temporary Transfer Application T-12657 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-12657 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2017 and 2018 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2018 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 88069 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 88069.
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. Water use measurement conditions:
- a. **Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion (new and existing).
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
9. The use of the remaining water right described by Certificate 88069 shall continue to be in accordance with the terms and conditions of Certificate 88069.

Dated at Salem, Oregon this 20 day of July, 2017.



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

Mailing Date: JUL 26 2017