BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-12398, Morrow County)	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.

Applicants

FRANK TIEGS PO BOX 3110 PASCO, WA 99302 GREG TE VELDE PO BOX 1210 BOARDMAN, OR 97818

Findings of Fact

- 1. On May 26, 2016, FRANK TIEGS AND GREG TE VELDE filed an application to temporarily change the place of use under Certificates 86993 and 83517 for a period of one (1) year. The Department assigned the application number T-12398.
- 2. Notice of the application for transfer was published on June 7, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On July 14, 2016, the Department contacted the applicant's agent by telephone and by written correspondence to notify them of the deficiencies in the application. The Department requested that the deficiencies be resolved by August 14, 2016.
- 4. On July 19 and 22, 2016, the applicant's agent submitted amended application pages and maps resolving the deficiencies.
- 5. The portion of the first right to be temporarily transferred is as follows:

Certificate:

86993 in the name of BOARDMAN TREE FARM, LLC (perfected under

Permit S-37293)

Use:

IRRIGATION of 208.2 ACRES

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.

Priority Date:

FEBRUARY 7, 1974

Rate:

3.43 CUBIC FEET PER SECOND (CFS)

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-FORTIETH 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 4.5 acre-feet per acre for each acre irrigated during the irrigation

season of each year.

Source:

COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Govt Lot	Measured Distances
4 N	25 E	WM	2	NE NW	7	150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
2 N	26 E	WM	2	NE NW	0.7
2 N	26 E	WM	2	SW NW	5.3
2 N	26 E	WM	2	SE NW	12.4
2 N	26 E	WM	2	NW SW	2.7
2 N	26 E	WM	2	SW SW	4.8
2 N	26 E	WM	2	SE SW	0.6
2 N	26 E	WM	2	NW SE	0.2
2 N	26 E	WM	2	SW SE	0.7
2 N	26 E	WM	3	NE NE	2.3
2 N	26 E	WM	3	SW NE	2.5
2 N	26 E	WM	3	SE NE	4.2
2 N	26 E	WM	3	SE NW	2.2
2 N	26 E	WM	3	SE SW	0.8
2 N	26 E	WM	3	NW SE	1.8
2 N	26 E	WM	3	SW SE	1.6
2 N	26 E	WM	3	SE SE	5.1
3 N	26 E	WM	14	SW NW	2.8
3 N	26 E	WM	14	SE NW	6.4
3 N	26 E	WM	14	NE SW	2.5
3 N	26 E	WM	14	NW SW	2.2
3 N	26 E	WM	15	NW NE	7.4
3 N	26 E	WM	15	SW NE	8.4
3 N	26 E	WM	21	NE SW	15.5
3 N	26 E	WM	21	NW SW	4.0
3 N	26 E	WM	21	NE SE	8.7
3 N	26 E	WM	21	NW SE	10.3
3 N	26 E	WM	22	NE SW	16.9
3 N	26 E	WM	22	NW SW	16.0
3 N	26 E	WM	27	NE NE	6.7
3 N	26 E	WM	27	NW NE	7.1
3 N	26 E	WM	27	SW NE	2.0
3 N	26 E	WM	27	SE NE	0.5
3 N	26 E	WM	27	NE NW	2.5
3 N	26 E	WM	27	SE NW	6.0
3 N	26 E	WM	27	NE SE	0.4

Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	28	SW SW	0.2
3 N	26 E	WM	28	SE SW	2.6
3 N	26 E	WM	28	NE SE	0.5
3 N	26 E	WM	28	NW SE	9.0
3 N	26 E	WM	28	SW SE	3.9
3 N	26 E	WM	28	SE SE	4.0
3 N	26 E	WM	33	NE NE	2.0
3 N	26 E	WM	33	NW NE	1.3
3 N	26 E	WM	33	NW NW	1.3
3 N	26 E	WM	34	NE NW	0.6
3 N	26 E	WM	34	SE SE	6.8
3 N	26 E	WM	35	SW SW	2.2
3 N	26 E	WM	35	SE SW	0.2
				Total:	208.8

6. Temporary Transfer Application T-12398 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	15	NW NE	3.2
3 N	26 E	WM	15	SW NE	30.0
3 N	26 E	WM	15	NE NW	0.6
3 N	26 E	WM	15	NW NW	0.6
3 N	26 E	WM	15	SW NW	0.9
3 N	26 E	WM	15	SE NW	1.0
3 N	26 E	WM	15	NE SW	0.9
3 N	26 E	WM	15	NW SW	0.8
3 N	26 E	WM	15	SW SW	0.7
3 N	26 E	WM	15	SE SW	0.8
3 N	26 E	WM	15	SE NE	10.9
3 N	26 E	WM	16	NE NE	0.6
3 N	26 E	WM	16	NW NE	1.3
3 N	26 E	WM	16	NE NW	1.2
3 N	26 E	WM	16	NW NW	1.4
3 N	26 E	WM	16	SW NW	0.3
3 N	26 E	WM	16	SE NW	0.2
3 N	26 E	WM	21	NE NE	1.1
3 N	26 E	WM	21	NW NE	0.8
3 N	26 E	WM	21	SW NE	1.3
3 N	26 E	WM	21	SE NE	1.6
3 N	26 E	WM	21	NE NW	0.8
3 N	26 E	WM	21	NW NW	0.3
3 N	26 E	WM	21	SW NW	0.2
3 N	26 E	WM	21	NE SW	38.7
3 N	26 E	WM	21	NW SW	7.8
3 N	26 E	WM	21	SE SW	1.0
3 N	26 E	WM	21	NW SE	17.7
3 N	26 E	WM	22	NW NE	1.0
3 N	26 E	WM	22	SW NE	0.8
3 N	26 E	WM	22	NE NW	1.1
3 N	26 E	WM	22	NW NW	0.9
3 N	26 E	WM	22	SW NW	0.7
3 N	26 E	WM	22	SE NW	0.8

Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	22	NE SW	38.5
3 N	26 E	WM	22	NW SW	29.8
3 N	26 E	WM	22	SW SW	0.7
3 N	26 E	WM	22	SE SW	3.5
3 N	26 E	WM	22	NW SE	2.6
3 N	26 E	WM	22	SW SE	1.0
3 N	26 E	WM	27	NW NE	0.3
3 N	26 E	WM	27	SW NE	0.4
				Total:	208.8

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

Certificate:

83517 in the name of CONNECTICUT GENERAL LIFE INSURANCE

CO. (perfected under Permit S-37293)

Use:

IRRIGATION of 420.6 ACRES

Priority Date:

FEBRUARY 7, 1974

Rate:

6.80 CUBIC FEET PER SECOND (CFS)

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

ONE-FORTIETH 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 4.5 acre-feet for each acre irrigated during the irrigation season of

each year.

Source:

COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Govt Lot	Measured Distances
4 N	25 E	WM	2	NE NW	7	150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
2 N	26 E	WM	2	NE SW	28.3
2 N	26 E	WM	2	SW SW	34.9
2 N	26 E	WM	2	SE SW	29.5
2 N	26 E	WM	3	SW SE	33.6
2 N	26 E	WM	3	SE SE	33.8
2 N	26 E	WM	10	NE NE	34.9
2 N	26 E	WM	10	NW NE	38.1
2 N	26 E	WM	11	NE NW	29.1
2 N	26 E	WM	11	NW NW	37.6
3 N	26 E	WM	28	NE SE	23.1
3 N	26 E	WM	28	NW SE	27.6
3 N	26 E	WM	28	SW SE	35.1
3 N	26 E	WM	28	SE SE	35.0
				Total:	420.6

8. Temporary Transfer Application T-12398 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
2 N	26 E	WM	7	SW NW	25.2
2 N	26 E	WM	7	NE SW	9.5
2 N	26 E	WM	7	NW SW	31.5
2 N	26 E	WM	18	SE SE	23.3
2 N	26 E	WM	19	NE NE	17.0
2 N	26 E	WM	19	SW NW	13.5
2 N	26 E	WM	19	NE SW	0.5
2 N	26 E	WM	19	NW SW	39.6
2 N	26 E	WM	19	SW SW	35.3
2 N	26 E	WM	19	NE SE	14.8
2 N	26 E	WM	19	SE SE	10.1
2 N	26 E	WM	19	SE SE	10.7
2 N	26 E	WM	30	NE NW	15.7
2 N	26 E	WM	30	NW NW	38.0
3 N	26 E	WM	14	NE NW	30.0
3 N	26 E	WM	14	NW NW	28.0
3 N	26 E	WM	15	NE NE	31.0
3 N	26 E	WM	15	NW NE	26.8
3 N	26 E	WM	15	SE NE	20.1
				Total:	420.6

9. Temporary Transfer Application T-12398 proposes to temporarily transfer water rights within the boundaries of Columbia Improvement District. The district was notified of the proposed temporary transfer and indicated that the district did not object to the transfer.

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 change would not result in enlargement of the rights.
- 13. 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-12398 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-12398 is approved.
- 2. The former place of use **shall not** be irrigated as part of these water rights during the 2016 irrigation season.
- 3. The use shall revert to the authorized place of use at the end of the 2016 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 Certificates 86993 and 83517 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 86993 and 83517.
- 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 device and shall make such improvements as may be required by the Department.
- 9. The use of the remaining water rights described by Certificates 86993 and 83517 shall continue to be in accordance with the terms and conditions of Certificates 86993 and 83517.

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

Mailing Date:	AUG 1 1 2016
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