

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-13218, Clackamas 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.

Applicant

CAL FARMS
ATTN: AMBROSE CALCAGNO
17031 S. CLACKAMAS RIVER DRIVE
OREGON CITY, OR 97045

Findings of Fact

1. On July 3, 2019, CAL FARMS, ATTN: AMBROSE CALCAGNO, filed an application to temporarily change the place of use and under Certificate 88694 for a period of 1 year. The Department assigned the application number T-13218.
2. Notice of the application for transfer was published on July 23, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. Metro Parks and Nature, legal owner of the lands appurtenant to Certificate 88694 currently has a contract (Metro Contract No. 922445) with Cal Farms which allows Cal Farms to farm, cultivate, maintain and operate the Premises described as T2S, R3E, Section 17, Tax lot 1502 (Metro Contract No. 922445, exhibit A) until December 31, 2019. Metro Parks and Nature consented by email on July 19, 2019, to allow Cal Farms to temporarily transfer 15.66 acres of irrigation to property owned by Benjamin Clapp described as T2S, R3E, Section 17, Tax lot 2300 and T2S, R3E, Section 20, Tax Lot 100, which is located to the south of the Metro property.

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

Certificate: 88694 in the name of JIM CALCAGNO (perfected under Permit S-27507)
Use: IRRIGATION of 15.66 ACRES
Priority Date: JULY 28, 1961
Rate: 0.19 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: CLACKAMAS RIVER tributary to WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	3 E	WM	17	NW SW	1100 FEET SOUTH AND 1000 FEET EAST FROM THE W1/4 CORNER OF SECTION 17

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
2 S	3 E	WM	17	SE NW		0.7
2 S	3 E	WM	17	NE SW		10.5
2 S	3 E	WM	17	NW SW	5	4.46
Total						15.66

5. Temporary Transfer Application T-13218 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	
2 S	3 E	WM	17	SE SW	6.3	
2 S	3 E	WM	17	NE NW	9.36	
Total					15.66	

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.

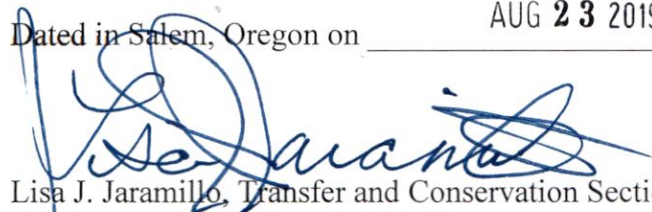
Conclusions of Law

The temporary change in place of use proposed in Temporary Transfer Application T-13218 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-13218 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2019 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2019 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 88694 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 88694.
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 88694 shall continue to be in accordance with the terms and conditions of Certificate 88694.

Dated in Salem, Oregon on AUG 23 2019



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

Mailing Date: AUG 26 2019