

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-12128, Yamhill County	)	TEMPORARY CHANGES 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**

CHRISTENSEN FARMS LLC  
17215 SW CHRISTENSEN RD  
MCMINNVILLE, OR 97128

**Findings of Fact**

1. On August 10, 2015, CHRISTENSEN FARMS LLC filed an application to temporarily change the place of use and points of diversion to serve the proposed place of use under Certificates 20085 and 22392 for a period of 2 years. The Department assigned the application number T-12128.
2. Notice of the application for transfer was published on August 18, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

3. The first right to be temporarily transferred is as follows:

**Certificate:** 20085 in the name of JOHN DE JONG (perfected under Permit S-18584)

**Use:** IRRIGATION of 30.0 ACRES

**Priority Date:** NOVEMBER 17, 1948

**Rate:** 0.375 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 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

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.

exceed 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** SOUTH YAMHILL RIVER, tributary of YAMHILL RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	5 W	WM	4	NW NE	62	AS PROJECTED ON J. DANFORTH D.L.C. 62

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	5 W	WM	33	SW SE	29.8
5 S	5 W	WM	33	SE SE	0.2
Total					30.0

4. Water right Certificate 20085 has a scrivener's error describing the point of diversion as being in the NW NE of Section 4, T6S, R5W, the correct location of the point of diversion is in the NE NW.

5. Temporary Transfer Application T-12128 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	5 W	WM	27	SE NE	30.0

6. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12128 proposes to move the authorized point of diversion approximately 2.6 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	5 W	WM	27	NW SE	POD 5 – 2180 FEET NORTH AND 510 FEET EAST FROM THE SW CORNER OF SECTION 35

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

**Certificate:** 22392 in the name of JOHN DE JONG (perfected under Permit S-22081)

**Use:** IRRIGATION of 30.0 ACRES

**Priority Date:** FEBRUARY 4, 1953

**Rate:** 0.375 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:** SOUTH YAMHILL RIVER, tributary of YAMHILL RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	5 W	WM	4	NE NW	62	AS PROJECTED WITHIN J. DANFORTH D.L.C. 62

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	5 W	WM	33	NW SE		0.7
5 S	5 W	WM	33	SW SE		2.0
5 S	5 W	WM	33	SE SE		14.9
6 S	5 W	WM	4	NW NE	62	6.3
6 S	5 W	WM	4	NE NW	62	6.1
Total						30.0

8. Temporary Transfer Application T-12128 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	5 W	WM	27	NE SE	30.0

9. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12128 proposes to move the authorized point of diversion approximately 2.6 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	5 W	WM	27	NW SE	POD 5 – 2180 FEET NORTH AND 510 FEET EAST FROM THE SW CORNER OF SECTION 35

***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 and points of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12128 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

### Now, therefore, it is ORDERED:

14. The temporary changes in place of use and points of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12128 are approved.
15. The former place of use **shall not** be irrigated as part of these water rights during the 2015 and 2016 irrigation seasons.
16. The use shall revert to the authorized place of use at the end of the 2016 irrigation season. The authorization to use the new point of diversion shall be terminated concurrently.
17. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
18. A subsequent application for permanent transfer of Certificates 20085 and 22392 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.
19. 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 20085 and 22392.
20. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.

Dated at Salem, Oregon this 22 day of September, 2015.

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

Mailing Date: SEP 24 2015