

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-10387, Douglas County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE AND
)	REDESCRIPTION OF A WATER
)	RIGHT

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

BASCO BROS LLC
PO BOX 131
WINCHESTER OR 97495

Findings of Fact

Background

1. On May 15, 2007, Basco Bros LLC, filed an application to change the place of use under Certificate 80234 (perfected under Permit S-26192). The Department assigned the application number T-10387.
2. The original Final Proof Survey for Permit S-26192 appears to have relied on fence locations for the Sectional Subdivision Lines. Recent surveys and maps submitted with this transfer application (T-10387) indicate how the Public Land Survey subdivisions are currently understood to overlay the area for this right. Therefore, for the water right description to be consistent with current descriptions of property boundaries, the right should be re-described before the changes of Transfer Application T-10387.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.
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3. The following table lists the place of use as described in existing Certificate 80234 and a proposed re-description based on the above findings:

Certificate	Original Description of Place of Use		Proposed Re-Description of Place of Use		
	¼-¼	Acres	¼-¼	Acres	DLC #
80234	SW SE	26.95	SW SE	29.17	DLC 43
			SE SW	0.05	DLC 43
	SE SE	9.49	SE SE	9.13	DLC 43
	SE SE	4.28	SE SE	0.69	
Township 26 South, Range 6 West, Section 22, W.M.					

Certificate	Original Description of Place of Use		Proposed Re-Description of Place of Use		
	¼-¼	Acres	¼-¼	Acres	DLC #
80234			NE NW	0.01	DLC 43
			NW NE	1.67	DLC 43
Township 26 South, Range 6 West, Section 27, W.M.					
Total: 40.72			Total: 40.72		

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

Certificate: 80234 in the name of Robert A. Dudley (perfected under Permit S-26192)

Use: IRRIGATION of 2.60 ACRES

Priority Date: MAY 15, 1959

Rate: 0.033 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season of each year provided further that the right to the use of water is limited to the period when the flow of water in the North Umpqua river is 525.0 cfs or more at its mouth

Source: NORTH UMPQUA RIVER, tributary to UMPQUA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
26 S	6 W	WM	22	SE SE

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
26 S	6 W	WM	22	SW SE	43	1.65
26 S	6 W	WM	22	SE SE	43	0.92
26 S	6 W	WM	22	SE SE		0.03

- Transfer Application T-10387 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
26 S	6 W	WM	22	SW SE	43	0.63
26 S	6 W	WM	22	SE SE	43	0.17
26 S	6 W	WM	22	SE SE		1.80

- Notice of the application for transfer was published on May 22, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On October 30, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10387 to the applicant. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
- The Oregon Department of Fish and Wildlife (ODFW) determined that a fish screening and/or by-pass device is necessary at the point of diversion. However since no change in the point of diversion is being proposed for this transfer this condition cannot be imposed by the Department.

Transfer Review Criteria [OAR 690-380-4010(2)]

- Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Application T-10387.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in place of use proposed in application T-10387 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

If application T-10387 is approved, the final order will include the following:

- The change in place of use proposed in Transfer Application T-10387 is approved.*
- Water right certificate 80234 is cancelled. A new certificate will be issued to describe the portion of the right not affected by the transfer and will be based on the re-description of the place of use as listed in Finding of Fact #3.*

3. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 80234 and any related decree.*
4. *The former place of use of the transferred portion of the right shall no longer receive water under the right.*
5. *Prior to diverting water, the water user shall install an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.*
6. *The approved change shall be completed and full beneficial use of the water shall be made on or before October 1, 2009. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*
7. *When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 12th day of February, 2008.



PCW
Phillip C. Ward, Director

This Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Dorothy Pedersen at 503-986-0890 or Dorothy.I.Pedersen@wr.d.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.