

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

In the Matter of Transfer Application)	SUPERSEDING FINAL ORDER
T-10334, Yamhill County)	APPROVING A TEMPORARY
)	CHANGE IN PLACE OF USE

Authority

ORS 537.705 and 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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

Gareld Johnson
8000 NE GUN CLUB ROAD
CARLTON OR 97111

Findings of Fact

1. On March 9, 2007, Gareld Johnson filed an application to temporarily change the place of use under Certificate 34739 for a period of four years. The Department assigned the application number T-10334.
2. On April 17, 2007, the applicant submitted a revised map and application identifying 25.6 acres proposed to be transferred.
3. The portion of the first right to be transferred is as follows:

Certificate: 34739 in the name of Hawn Creek District Improvement Co. (perfected under Permit S-27097)

Use: IRRIGATION of 25.6 ACRES

Priority Date: SEPTEMBER 28, 1960

Rate: 0.32 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year

Source: HAWN CREEK, tributary to YAMHILL RIVER

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an 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 either 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.

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
4 S	4 W	WM	11	NW NE	44	580 FEET NORTH AND 590 FEET WEST FROM THE MOST EASTERLY SE CORNER OF DLC 44

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	4 W	WM	2	SW NW	Cary DLC 44	0.8
4 S	4 W	WM	2	SE NW	Cary DLC 44	24.8

4. Transfer Application T-10334 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	4 W	WM	2	NE NW	Cary DLC 44	1.0
4 S	4 W	WM	2	NW NW	Cary DLC 44	1.0
4 S	4 W	WM	2	SW NW	Cary DLC 44	20.3
4 S	4 W	WM	2	SE NW	Cary DLC 44	3.3

5. Notice of the application for temporary transfer was published on March 20, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
6. On April 20, 2007, the Department issued a Final Order for the temporary transfer, recorded at Special Order Volume 71, Pages 583-585. Shortly following issuance of the order the Department was notified of an error, being the inclusion of language related to point of diversion conditions. This temporary transfer did not propose changes to the point of diversion and should not have included this language.
7. This order is issued to supersede the previous order recorded at Special Order Volume 71 Pages 583 to 585, to correct the error by removing reference to conditions for a point of diversion change.
8. Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
10. The proposed change would not result in enlargement of the right.
11. 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(6) 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 Temporary Transfer Application T-10334 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The order record at Volume 71, Pages 583-585 is superseded and of no further force or effect.
2. The change in place of use proposed in application T-10334 is approved.
3. The former place of use **shall not** be irrigated as part of this water right during the 2007, 2008, 2009, and 2010 irrigation seasons.
4. The use shall revert to the authorized place of use at the end of the 2010 irrigation season.
5. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
6. A subsequent application for permanent transfer of Certificate 34739 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.
7. 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 34739.
8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
9. The use of the remaining water right described by Certificate 34739 shall continue to be in accordance with the terms and conditions of Certificate 34739.

Dated at Salem, Oregon this 4th day of May 2007.



Phillip C. Ward, Director

Mailing Date: MAY 17 2007