

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

In the Matter of Transfer Application)
T-12155, Polk County)
)
) **FINAL ORDER APPROVING
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

BLUE HEAVEN PROPERTIES, LLC
PO BOX 607
INDEPENDENCE, OR 97351

Findings of Fact

1. On September 8, 2015, BLUE HEAVEN PROPERTIES, LLC, filed an application to temporarily change the place of use and point of diversion to serve the proposed place of use under Certificate 29447 for a period of 1 year. The Department assigned the application number T-12155.
2. Notice of the application for transfer was published on September 15, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the right to be temporarily transferred is as follows:
Certificate: 29447 in the name of PAUL WILSON (perfected under Permit S-25385)
Use: IRRIGATION of 26.4 ACRES
Priority Date: MARCH 10, 1958
Rate: 0.33 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

<p>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.</p>

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

Source: LUCKIAMUTE RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	5 W	WM	19	SW NE	70	AS PROJECTED WITHIN R. SIMPSON DLC 70

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	5 W	WM	19	SW NE	70	5.2
9 S	5 W	WM	19	NE SE	70	6.0
9 S	5 W	WM	19	NW SE	70	15.2
Total						26.4

4. Certificate 29447 does not describe the measured distances of the point of diversion, however information is available from the applicant and agent indicating that the point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	5 W	WM	19	SW NE	70	2165 FEET SOUTH AND 1615 FEET WEST FROM THE NE CORNER OF SECTION 19

5. Temporary Transfer Application T-12155 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	5 W	WM	19	SW NE	0.1
9 S	5 W	WM	19	SE NE	18.7
9 S	5 W	WM	19	NE SE	2.2
9 S	5 W	WM	20	SW NW	5.4
Total					26.4

6. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12155 proposes to move the authorized point of diversion approximately 0.5 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	5 W	WM	19	NE NE	70	790 FEET SOUTH AND 205 FEET WEST FROM THE NE CORNER OF SECTION 19

Temporary Transfer Review Criteria

7. 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.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
9. The proposed changes would not result in enlargement of the right.
10. 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

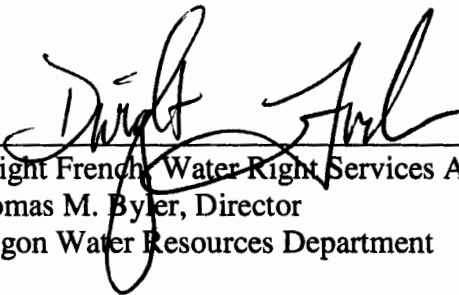
The temporary changes in place of use and point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12155 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12155 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2015 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2015 irrigation season. The authorization to use the new point of diversion shall be terminated concurrently.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificate 29447 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 29447.
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 29447 shall continue to be in accordance with the terms and conditions of Certificate 29447.

Dated at Salem, Oregon this 19 day of October, 2015.



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

Mailing Date: OCT 20 2015