

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

In the Matter of Transfer Application)
T-10213, Clackamas County)
)
) FINAL ORDER APPROVING A
) TEMPORARY CHANGE IN PLACE OF
) USE

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 appropriation 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

KEVIN AND VICKI GUAY
7654 S MARK RD
CANBY OR 97013

Findings of Fact

1. On July 10, 2006, Kevin And Vicki Guay filed an application to temporarily change the place of use under Certificate 31827 for a period of five years. The Department assigned the application number T-10213.
2. On August 4, 2006, amendments to the application and map were received from the applicant.
3. The portion of the right to be transferred is as follows:

Certificate: 31827 in the name of ROBERT RATCLIFF (perfected under Permit G-1558)
Use: IRRIGATION of 3.0 ACRES
Priority Date: MARCH 15, 1960
Rate: 0.02 CUBIC FOOT PER SECOND (cfs)
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre feet per acre per year
Source: A WELL in the MOLALLA RIVER BASIN

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 Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
4 S	1 E	WM	20	SW NE	A.MARKS DLC 39	21 CHAINS SOUTH AND 13 CHAINS WEST FROM THE NE CORNER OF DLC 39

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	1 E	WM	20	SW NE	39	3.0

4. Application T-10213 proposes to change the place of use of the right to:

IRRIGATION

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	1 E	WM	20	NW NE	39	3.0

5. Notice of the application for temporary transfer was published on July 25, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
6. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are 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. 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 application T-10213 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in application T-10213 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2007, 2008, 2009, 2010 and 2011 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2010 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 31827 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 31827.
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. Prior to diverting of water at the new point of diversion, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. 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
9. The use of the remaining water right described by Certificate 31827 shall continue to be in accordance with the terms and conditions of Certificate 31827.

Dated at Salem, Oregon this 29th day of August 2006.



Phillip C. Ward, Director

Mailing Date: SEP 01 2006