

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-10604, Lake County)	TEMPORARY CHANGES IN PLACES
)	OF USE AND POINTS OF
)	APPROPRIATION

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 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

TIM WARKENTIN
PO BOX 12
CHRISTMAS VALLEY, OR 97641

Agent

GLENDER'S HYDRO TECH SERVICES
Attn – DENNIS GLENDER
8664 SW WAND RIDGE RD
CROOKED RIVER RANCH, OR 97760

Findings of Fact

1. On April 21, 2008, Tim Warkentin filed an application to temporarily change the places of use and points of appropriation under Certificates 80220 and 80221 for a period of five years. The Department assigned the application number T-10604.
2. The portion of the first right to be transferred is as follows:
Certificate: 80220 in the name of HAROLD A. BROWN (perfected under Permit G-10326)
Use: IRRIGATION of 53.0 ACRES
Priority Date: FEBRUARY 15, 1984
Rate: 0.67 CUBIC FOOT PER SECOND (cfs)
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year
Source: WELL #1 in the CHRISTMAS VALLEY BASIN

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.

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
24 S	18 E	WM	35	SE SW	1250 FEET NORTH AND 1320 FEET EAST FROM THE SW CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	18 E	WM	35	NE SW	33.6
24 S	18 E	WM	35	SE SW	19.4

3. Transfer Application T-10604 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
25 S	18 E	WM	9	NE SW	2300	31.2
25 S	18 E	WM	9	NW SW	2100	21.8

4. A change to the point of appropriation is necessary to convey the water to the proposed temporary place of use. Transfer Application T-10604 proposes to change the point of appropriation to a point of appropriation approximately three miles in a southwesterly direction from the authorized point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
25 S	18 E	WM	9	NW SW	20 FEET SOUTH AND 1310 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

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

Certificate: 80221 in the name of HAROLD A. BROWN (perfected under Permit G-9974)

Use: IRRIGATION of 71.8 ACRES

Priority Date: JUNE 9, 1981

Rate: 0.90 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year year

Source: WELL #2 in the CHRISTMAS VALLEY BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
24 S	18 E	WM	35	NW NW	1200 FEET SOUTH AND 1250 FEET EAST FROM THE NW CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	18 E	WM	35	NE NW	33.6
24 S	18 E	WM	35	NW NW	2.4
24 S	18 E	WM	35	SW NW	2.4
24 S	18 E	WM	35	SE NW	33.4

6. Transfer Application T-10604 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
25 S	18 E	WM	9	SW NW	2100	31.2
25 S	18 E	WM	9	SE NW	2300	31.2
25 S	18 E	WM	9	NW SW	2100	9.4

7. A change to the point of appropriation is necessary to convey the water to the proposed temporary place of use. Transfer Application T-10604 proposes to change the point of appropriation to a point of appropriation approximately three miles in a southwesterly direction from the authorized point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
25 S	18 E	WM	9	NW SW	20 FEET SOUTH AND 1310 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

8. Notice of the application for temporary transfer was published on May 6, 2008, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
9. The right was used under Temporary Transfer T-9092 during the irrigation seasons of 2003, 2004, 2005, 2006 and 2007 irrigation seasons and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
11. The proposed change would not result in enlargement of the rights.
12. 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.

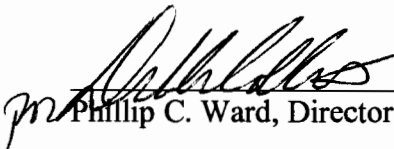
Conclusions of Law

The temporary changes in places of use and points of appropriation proposed in Transfer Application T-10604 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in places of use and points of appropriation proposed in Transfer Application T-10604 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2008, 2009, 2010, 2011 and 2012 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2012 irrigation season. The authorization to use the new points of appropriation shall be terminated concurrently.
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 Certificates 80220 and 80221 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 Certificates 80220 and 80221.
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. When required by the Department, 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 Certificates 80220 and 80221 shall continue to be in accordance with the terms and conditions of Certificates 80220 and 80221.

Dated at Salem, Oregon this 9th day of June, 2008.



Phillip C. Ward, Director

Mailing Date: JUN 20 2008