

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-11497, Clackamas County) TEMPORARY CHANGES IN PLACE
) OF USE AND POINT OF DIVERSION

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

Ramon DeMartini
8441 S. Lone Elder Road
CANBY OR 97013

Findings of Fact

1. On December 4, 2012, Ramon DeMartini filed an application to temporarily change the place of use under Certificate 20506, for a period of five years. The Department assigned the application number T-11497.
2. On January 22, 2013, the Department received amendments to the applications clarifying the application included a change in point of diversion.
3. The portion of the right to be transferred is as follows:

Certificate: 20506 (perfected under Permit S-18923) in the name of Andrew J. Hein
Use: Irrigation of 16.2 acres
Priority Date: August 9, 1949
Quantity: 0.20 cubic foot per second (cfs)
Rate/Duty: 1/80 cfs per acre or its equivalent for each acre irrigated and shall be further limited to a diversion of not ot exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: An Unnamed Stream, tributary to the Molalla River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
4 S	1 E	WM	9	NE SE

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 Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 E	WM	9	NE SE	16.2

4. Certificate 20506 does not describe the location of the point of diversion, however information is available from the transfer application map indicating that the point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Measured Distance
4 S	1 E	WM	9	NE SE	3600	DIVERISON POINT 3: 1887 FEET NORTH AND 4171 FEET EAST FROM THE SW CORNER OF SECTION 9.

5. Application T-11497 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 E	WM	9	SE NW	9.0
4 S	1 E	WM	9	SE SW	7.2

6. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-11497 proposes to move the authorized point of diversion approximately 1500 feet downstream as follows:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Measured Distance
4 S	1 E	WM	9	NE SW	3300	2568 FEET NORTH AND 2137 FEET EAST FROM THE SW CORNER OF SECTION 9.

7. Notice of the application for temporary transfer was published on December 11, 2012 and on January 22, 2013, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
8. Water has been used within the last five years according to the terms and conditions of the right. 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 will not result in enlargement of the right.
11. The proposed change will 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.

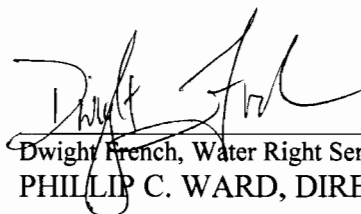
Conclusions of Law

The temporary changes in place of use and point of diversion to convey water to the temporary place of use as proposed in Transfer Application T-11497 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary change in place of use and point of diversion proposed in Transfer Application T-11497 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2013, 2014, 2015, 2116 and 2017 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2017 irrigation season. The authorization to use the new, approved point of diversion 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. 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 20506 and any related decree.
6. The time during which water is used under this temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
7. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
8. Use of the remaining water right described by Certificate 20506 shall continue in accordance with the terms and conditions of Certificate 20506.

Dated at Salem, Oregon this 25 day of January, 2013.


Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing Date: JAN 29 2013