BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-9677, Umatilla County, Oregon)	TEMPORARY CHANGES IN PLACE
)	OF USE AND POINT OF
		APPROPRIATION

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 or 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

Wal-Mart Distribution Center (Robert Hale Jr. and L. Vernon Cook) PO Box 110 Hermiston, OR 97838

Findings of Fact

1. Wal-Mart Distribution Center (Robert Hale Jr. and L. Vernon Cook) filed an application to temporarily transfer the place of use and point of appropriation under Certificates 79889 and 79890 for a period of 1 year. The Department assigned the application number T-9677.

2. The portion of the first right to be transferred is as follows:

Certificate: 79889 in the name of Vernon and Ivan Cook

Use: Irrigation

Priority Date: February 25, 1977

Quantity: 0.369 Cubic Foot per Second (CFS)

Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre

Acres: 29.5 acres

Source: Well #4 in the Umatilla River Basin

Authorized Point of Appropriation:

Tow	nship	Rai	nge	Meridian	Sec	1/4 1/4	Location
4	N	28	Е	W.M.	24	SE NE	Well 4 - 660 feet North and 670 feet West from E 1/4 Corner, Section 24

This is a final order in other than 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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

Authorized Place of Use:

Tow	nship	Rai	nge	Meridian	Sec	1/4 1/4	Tax Lot	Acres
4	N	28	Е	W.M.	24	SE NE	107	29.5

3. Application T-9677 proposes to change the place of use for a portion of Certificate 79889 to:

Tow	nship	Rai	nge	Meridian	Sec	1/4 1/4		Tax Lot	Circle	Acres
3	N	29	Е	W.M.	14	SW	NE	3900	2	29.5

As is necessary to convey the water to the proposed temporary place of use, Application T-9677 also proposes to move the authorized point of appropriation for Certificate 79889 to:

Town	nship	Range		Meridian	Sec	1/4 1/4		1/4 1/4		Location
3	N	29	Е	W.M.	9	SE	SW	Siebel Well - 380 feet North and 3120 feet West from SE Corner, Section 9		

The second right to be transferred is as follows:

Certificate:

79890 in the name of Rick L Hale

Use:

Irrigation

Priority Date: February 25, 1977

Quantity:

2.97 Cubic Feet per Second (CFS)

Rate/Duty:

1/80 cfs per acre, not to exceed 3.0 acre-feet per acre

Acres:

237.8 acres

Source:

A Well in the Umatilla River Basin

Authorized Point of Appropriation:

Tow	nship	Raı	nge	Meridian	Sec	1/4 1/4	Location	
4	N	28	Е	W.M.	24	SW SE	1230 feet North and 1910 feet West from the SE corner, Section 24	

Authorized Place of Use:

Tow	nship	Rai	nge	Meridian	Sec	1/4	1/4	Tax Lot	Acres
4	N	28	Е	W.M.	23	NE	SE	100	5.8
4	N	28	Е	W.M.	23	SE	SE	100	5.8
4	N	28	Е	W.M.	24	NE	SW	106	26.0
4	N	28	Е	W.M.	24	NW	SW	100	37.4
4	N	28	Е	W.M.	24	SW	SW	100	37.6
4	N	28	Е	W.M.	24	SE	SW	106	28.0
4	N	28	Е	W.M.	24	NE	SE	107	11.2
4	N	28	Е	W.M.	24	NW	SE	106	34.0
4	N	28	Е	W.M.	24	SW	SE	106	38.4
4	N	28	Е	W.M.	24	SE	SE	107	13.6

6. Application T-9677 proposes to change the place of use for Certificate 79890 to:

Town	nship	Rai	nge	Meridian	Sec	1/4	1/4	Tax Lot	Circle	Acres
3	N	29	Е	W.M.	9	NW	NE	3300	56	3.6
3	N	29	Е	W.M.	9	SW	NE	3300	56	37.5
3	N	29	Е	W.M.	9	SE	NE	3300	56	0.6
3	N	29	Е	W.M.	9	NW	SE	3300	56	26.2
3	N	29	Е	W.M.	14	NE	NE	3900	2	32.8
3	N	29	Е	W.M.	14	NW	NE	3900	2	32.8
3	N	29	Е	W.M.	14	SW	NE	3900	2	3.3
3	N	29	Е	W.M.	14	SE	NE	3900	2	32.8
3	N	29	Е	W.M.	14	SW	NW	4100	55	6.5
3	N	29	Е	W.M.	14	NW	SW	4100	55	6.4
3	N	29	Е	W.M.	15	SE	NE	3404	55	14.7
3	N	29	Е	W.M.	15	NE	SE	3404	55	15.7
3	N	29	Е	W.M.	15	NW	SE	4200	7	13.0
3	N	29	Е	W.M.	15	SW	SE	4200	7	11.9

7. As is necessary to convey the water to the proposed temporary place of use, Application T-9677 also proposes to move the authorized point of appropriation for Certificate 79890 to:

Town	nship	Rar	nge	Meridian	Sec	1/4	1/4	Location
3	N	29	Е	W.M.	9	SE	SW	Siebel Well - 380 feet North and 3120 feet West from SE Corner, Section 9

- 8. Notice of the application for temporary transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
- 9. 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.
- 10. A diversion system sufficient to use the full amount of water allowed under Certificate 79889 is present. However, a diversion system sufficient to use the full amount of water allowed under Certificate 79890 does not appear to be present. According to amended application materials received on May 3, 2004, the system capacity for this certificate is 2.2 CFS. The maximum rate at which water may be diverted under this right is 2.97 CFS. Only 2.2 CFS may be used at the new temporary diversion point under certificate 79890.
- 11. The proposed change would not result in enlargement of the right.
- 12. The proposed change would not result in injury to other water rights.

Conclusions of Law

The temporary changes in place of use and point of appropriation proposed in application T-9677 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

- 1. The changes in place of use and point of appropriation proposed in application T-9677 are approved.
- 2. The former place of use **shall not** be irrigated as part of this water right during the 2004 irrigation season.
- 3. The use shall revert to the authorized place of use at the end of the 2004 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. 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 79889 and 79890.
- 6. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
- 7. 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.
- 8. The use of water under certificate 79890 shall not exceed a rate of 2.2 CFS.
- 9. The use of the remaining water right described by Certificates 79889 and 79890 shall continue to be in accordance with the terms and conditions of Certificates 79889 and 79890.

Dated at Salem, Oregon this 25th day of October, 2004.

Phillip C. Ward
Acting Director

Mailing date: NOV 0 5 2004

Requests for Reconsideration should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1271