

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

In the Matter of Transfer Application)
T-10357, Marion County)
)
) FINAL ORDER APPROVING A
) TEMPORARY CHANGE IN PLACE OF
) USE

Authority

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

King Family Farms Inc.
Attn: David King
4386 DESART RD NE
SILVERTON OR 97381

Findings of Fact

Background

1. On April 4, 2007, David King, Secretary, on behalf of King Family Farms, Inc., filed an application to temporarily change the place of use under Certificate 51933 for a period of one year. The Department assigned the application number T-10357.
2. The portion of the first right to be transferred is as follows:

Certificate: 51933 in the name of Melvin King (perfected under Permit S-43766)

Use: IRRIGATION of 17.0 ACRES

Priority Date: SEPTEMBER 18, 1978

Rate: 0.13 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per irrigation season

Source: PUDDING RIVER, tributary to WILLAMETTE RIVER

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 Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
7 S	1 W	WM	18	NW SE	710 FEET SOUTH AND 140 FEET EAST FROM THE SW CORNER OF LOT 2 (SWNE)

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
7 S	1 W	WM	18	SW NW	1	3.5
7 S	1 W	WM	18	SE NW	1	13.5

3. Application T-10357 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	1 W	WM	18	SE SE	17.0

4. Notice of the application for temporary transfer was published on April 10, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
5. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-10357.
7. The proposed change would not result in enlargement of the right.
8. 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-10357 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-10357 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2007 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2007 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 51933 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 51933.
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 water, the water user shall install an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. 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. The water user shall maintain and operate the measuring device as required by the Department.
9. Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.
10. The use of the remaining water right described by Certificate 51933 shall continue to be in accordance with the terms and conditions of Certificate 51933.

Dated at Salem, Oregon this 24th day of May 2007.


Phillip C. Ward, Director

Mailing Date: MAY 29 2007