

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-12368, Yamhill County)	TEMPORARY CHANGES IN PLACE
)	OF USE

Authority

Oregon Revised Statute (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.

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

Applicant

PAUL KUEHNE
WILLAMETTE VALLEY LAND LLC
PO BOX 99
LAFAYETTE, OR 97127

Findings of Fact

1. On May 3, 2016, PAUL KUEHNE/WILLAMETTE VALLEY LAND LLC filed an application to temporarily change the place of use under Certificates 48103 and 48512 for a period of five (5) years. The Department assigned the application number T-12368.
2. Notice of the application for transfer was published on May 10, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the first right to be temporarily transferred is as follows:

Certificate:	48103 in the name of RANDY COLEMAN (perfected under Permit S-37397)
Use:	IRRIGATION of 17.8 ACRES
Priority Date:	JANUARY 22, 1974
Rate:	0.22 CUBIC FOOT PER SECOND
Limit/Duty:	The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to

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.

exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: SOUTH YAMHILL RIVER a tributary of the YAMHILL RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	4 W	WM	6	SE NE	37	1600 FEET SOUTH AND 470 FEET WEST FROM THE NE CORNER OF SECTION 6

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	4 W	WM	31	NW NE	74	5.4
4 S	4 W	WM	31	SW NE	74	12.4
Total:						17.8

4. Temporary Transfer Application T-12368 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	4 W	WM	31	SE NE	59	1.7
4 S	4 W	WM	31	NE SE	59	1.7
4 S	4 W	WM	32	NW SW	59	6.1
4 S	4 W	WM	32	SW SW	59	8.3
Total:						17.8

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

Certificate: 48512 in the name of BETTY JEAN YOCKEY (perfected under Permit S-41697)

Use: IRRIGATION of 7.7 ACRES

Priority Date: APRIL 12, 1977

Rate: 0.10 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: SOUTH YAMHILL RIVER a tributary of the YAMHILL RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	4 W	WM	6	SE NE	37	1600 FEET SOUTH AND 480 FEET WEST FROM THE NE CORNER OF SECTION 6

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	4 W	WM	6	NW NE	0.5
5 S	4 W	WM	6	SW NE	7.2
Total:					7.7

- Temporary Transfer Application T-12368 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	4 W	WM	31	NE SE	74	7.70

Temporary Transfer Review Criteria

- Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
- The proposed changes would not result in enlargement of the rights.
- The proposed changes 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(5) 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 proposed in Temporary Transfer Application T-12368 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

- The temporary changes in place of use proposed in Temporary Transfer Application T-12368 are approved.
- The former place of use **shall not** be irrigated as part of these water rights during the 2016, 2017, 2018, 2019 and 2020 irrigation seasons.
- The use shall revert to the authorized place of use at the end of the 2020 irrigation season.
- The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
- A subsequent application for permanent transfer of Certificates 48103 and 48512 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.
- 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 48103 and 48512.
- 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. Water use measurement conditions:
- a. **Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion.
 - b. The water user shall maintain the meter(s) or measuring device(s) in good working order.
 - c. The water user shall allow the Watermaster access to the meter(s) or measuring device(s); provided however, where the meter(s) or measuring device(s) is/are located within a private structure, the Watermaster shall request access upon reasonable notice.
9. The use of the remaining water rights described by Certificates 48103 and 48512 shall continue to be in accordance with the terms and conditions of Certificates 48103 and 48512.

Dated at Salem, Oregon this 14 day of June, 2016.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing Date: JUN 20 2016