

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

In the Matter of Transfer Application ) FINAL ORDER APPROVING  
T-9688, Polk County, Oregon ) TEMPORARY CHANGES IN PLACE  
) OF USE

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

Kenneth Cruickshank  
5545 Mill Creek Road  
Sheridan, OR 97378

## Findings of Fact

1. Kenneth Cruickshank filed an application to temporarily transfer the place of use under Certificate 62300 for a period of 3 years. The Department assigned the application number T-9688.

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

**Certificate:** 62300 in the name of Ken Cruickshank

**Use:** Irrigation

**Priority Date:** November 4, 1982

**Quantity:** 0.235 Cubic Foot per Second (CFS)

**Rate/Duty:** 1/80 cfs per acre, not to exceed 2.5 acre-feet per acre

**Acres:** 26.7 acres

**Source:** Mill Creek, tributary to the Yamhill River

**Authorized Point of Diversion:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | DLC | Location                                                         |
|----------|---|-------|---|----------|-----|-------|-----|------------------------------------------------------------------|
| 6        | S | 6     | W | W.M.     | 33  | NE SE | 75  | 2180 feet North and 420 feet West from the SE Corner, Section 33 |

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:**

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Tax Lot | DLC | Acres |
|----------|---|-------|---|----------|-----|-------|---------|-----|-------|
| 6        | S | 6     | W | W.M.     | 33  | SW NE | 106     | 75  | 26.7  |

3. Application T-9688 proposes to change the place of use of the right to:

| Township |   | Range |   | Meridian | Sec | ¼ ¼   | Tax Lot | DLC | Acres |
|----------|---|-------|---|----------|-----|-------|---------|-----|-------|
| 6        | S | 6     | W | W.M.     | 33  | NE SE | 106     | 51  | 5.5   |
| 6        | S | 6     | W | W.M.     | 33  | NW SE | 106     | 51  | 7.7   |
| 6        | S | 6     | W | W.M.     | 33  | SW SE | 106     | 51  | 8.5   |
| 6        | S | 6     | W | W.M.     | 33  | SE SE | 106     | 51  | 5.0   |

4. 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.
5. 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.
6. A diversion structure and delivery system sufficient to use the full amount of water allowed under the existing right are present.
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.

**Conclusions of Law**

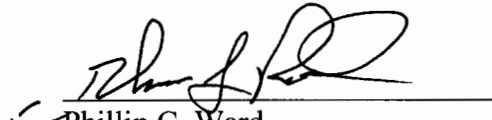
The temporary change in place of use proposed in application T-9688 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

**Now, therefore, it is ORDERED:**

1. The change in place of use proposed in application T-9688 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2004, 2005, and 2006, irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2006 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 Certificate 62300.

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. 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.
8. The use of the remaining water right described by Certificate 62300 shall continue to be in accordance with the terms and conditions of Certificate 62300.

Dated at Salem, Oregon this 25<sup>th</sup> day of October, 2004.

  
Phillip C. Ward  
Acting Director

Mailing date: NOV 05 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*