# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-9805, Lake County, Oregon	)	TEMPORARY CHANGE 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**

Jim and Phyllis Fitzpatrick 92435 Water Users Lane Lakeview, Oregon 97630

## **Findings of Fact**

- Jim and Phyllis Fitzpatrick filed an application to temporarily transfer the place of use under Certificate 76187 for a period of five years. The Department assigned the application number T-9805.
- 2. The portion of the right to be transferred is as follows:

**Certificate**: 76187 in the name of Lakeview Water Users, Inc.

Use: Primary Irrigation Priority Date: January 21, 1907

Rate/Duty: 1/40 CFS per acre, not to exceed three-fourths of one acre-foot per acre

during any thirty day period prior to June 1st, and one half acre-foot per acre during any 30 day period after June 1st, of each year, and shall not exceed

2.5 acre-feet per acre during any irrigation season

Acres: 40.0 Acres

**Source:** Drews Reservoir, tributary to Drews Creek

#### **Authorized Point of Diversion:**

Township		Range		Meridian	Sec	1/4 1/4		Location	
	40	S	18	Е	W.M.	5	SW	SE	120 Feet North and 1820 Feet West from the SE Corner, Section 5

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. 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:**

Town	nship	Range		Meridian	Sec 1/4 1/4		1/4	Acres
40	S	18	Е	W.M.	1	NE	NW	25.14
40	S	18	Е	W.M.	1	NW	NW	4.0
40	S	18	Е	W.M.	1	SE	NW	10.86

3. Application T-9805 proposes to temporarily change the place of use of the right to:

Township		Range		Meridian	Sec	1/4 1/4	Acres
40	S	19	E	W.M.	9	NW SE	40.0

- 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 pump, pipeline, and sprinkler 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-9805 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-9805 is approved.
- 2. The former place of use **shall not** be irrigated as part of these water rights during the 2005, 2006, 2007, 2008 and 2009 irrigation seasons.
- 3. The use shall revert to the authorized place of use at the end of the 2009 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 76187.

- 6. The water rights evidenced by Certificate S-11252 and Permit G-8840 appurtenant to the proposed place of use **shall not** be used during the 2005, 2006, 2007, 2008 and 2009 irrigation seasons.
- 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. 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.
- 9. The use of the remaining water right described by Certificate 76187 shall continue to be in accordance with the terms and conditions of Certificate 76187.

Dated at Salem, Oregon this 3/35 day of March, 2005.

Phillip C. Ward

Mailing date: APR 0 6 2005

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