

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-9823, Lake 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

Cougar Mountain Cattle Co.
c/o Zane D. Church, President
P.O. Box 598
Christmas Valley, Oregon 97641

Findings of Fact

1. Cougar Mountain Cattle Co. filed an application to temporarily transfer the place of use and point of appropriation under Certificates 80753 and 67902 for a period of five years. The Department assigned the application number T-9823.

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

- Certificate:** 80753 in the name of Zane D. Church
- Use:** Irrigation of 354.7 acres
- Priority Date:** February 11, 1977
- Quantity:** 4.44 cubic feet per second (cfs)
- Rate/Duty:** 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre
- Source:** Three Wells in the Fort Rock Basin

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 137-004-0080 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 Appropriation:

Township		Range		Meridian	Sec	¼ ¼		Location
28	S	16	E	W.M.	16	NW	NE	Well 1 – 1290 Feet South & 1330 Feet West from NE Corner, Section 16
28	S	16	E	W.M.	16	NE	SE	Well 2 – 1350 Feet North & 1190 Feet West from SE Corner, Section 16
28	S	16	E	W.M.	16	SE	SW	Well 3 – 1300 Feet North & 3840 Feet West from SE Corner, Section 16

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Lot	Well #	Acres
28	S	16	E	W.M.	16	NE	NE		1	7.9
28	S	16	E	W.M.	16	NW	NE		1	39.4
28	S	16	E	W.M.	16	SW	NE		1	40.0
28	S	16	E	W.M.	16	SE	NE		1	39.4
28	S	16	E	W.M.	16	NE	NW		1	39.4
28	S	16	E	W.M.	16	SE	NW		1	40.0
28	S	16	E	W.M.	16	NE	SW		3	36.6
28	S	16	E	W.M.	16	NW	SW	3	3	24.8
28	S	16	E	W.M.	16	SW	SW		3	32.6
28	S	16	E	W.M.	16	SE	SW		3	37.6
28	S	16	E	W.M.	16	NW	SE		3	0.2
28	S	16	E	W.M.	16	SW	SE		3	0.2
28	S	16	E	W.M.	16	NE	SE		2	3.8
28	S	16	E	W.M.	16	NW	SE		2	4.1
28	S	16	E	W.M.	16	SW	SE		2	4.3
28	S	16	E	W.M.	16	SE	SE		2	4.4

3. Application T-9823 proposes to change the place of use of the right to be served by the points of appropriation as described in Finding of Fact 4 to:

Township		Range		Meridian	Sec	¼ ¼		Lot	Well #	Acres
27	S	16	E	W.M.	25	SW	SW	900, 2700	5	26.3
27	S	16	E	W.M.	25	NE	SW	2200, 2300	5	31.4
27	S	16	E	W.M.	25	NW	SW	900	5	31.4
27	S	16	E	W.M.	25	SW	SW	900, 2700	5	5.1
27	S	16	E	W.M.	25	NE	SE	1400	4	31.4
27	S	16	E	W.M.	25	NW	SE	1400	4	11.0
27	S	16	E	W.M.	25	SW	SE	1400	4	11.0
27	S	16	E	W.M.	25	SE	SE	1400	4	31.4
27	S	16	E	W.M.	35	NE	SE	1900	6	31.4

Township		Range		Meridian	Sec	¼ ¼		Lot	Well #	Acres
27	S	16	E	W.M.	35	NW	SE	2000 Lot 3 - 2100	6	1.3
27	S	16	E	W.M.	35	SE	SE	Lot 4 – 2200 2300	6	31.4
27	S	16	E	W.M.	35	NW	SE	1900	6	16.6
27	S	17	E	W.M.	30	NE	SW	1700, 1800	4	23.75
27	S	17	E	W.M.	30	NW	SW	1900	4	23.75
27	S	17	E	W.M.	30	SW	SW	3100, 3200	4	23.75
27	S	17	E	W.M.	30	SE	SW	1900, 200	4	23.75

4. As is necessary to convey the water to the proposed temporary place of use, Application T-9823 also proposes to change the points of appropriation to:

Township		Range		Meridian	Sec	¼ ¼		Location
27	S	16	E	W.M.	25	NE	SE	Well 4 – 800 Feet South & 10 Feet West from E¼ Corner, Section 25
27	S	16	E	W.M.	25	SW	SW	Well 5 – 1320 Feet North & 1310 Feet East from SW Corner, Section 25
27	S	16	E	W.M.	35	SE	SE	Well 6 – 1320 Feet North & 1310 Feet West from SE Corner, Section 35

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

Certificate: 67902 in the name of Zane D. Church

Use: Irrigation of 44.9 acres

Priority Date: April 12, 1978

Quantity: 0.56 cfs

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

Source: A Well in the Fort Rock Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼		Location
28	S	16	E	W.M.	21	SE	NW	1990 Feet South & 3280 Feet West from NE Corner, Section 21

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Acres
28	S	16	E	W.M.	21	NE	NW	6.4
28	S	16	E	W.M.	21	SW	NW	29.5
28	S	16	E	W.M.	21	SE	NW	9.0

6. Application T-9823 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼		Acres
27	S	16	E	W.M.	35	NW	SE	13.5
27	S	16	E	W.M.	35	SW	SE	13.5

7. As is necessary to convey the water to the proposed temporary place of use, Application T-9823 also proposes to move the new points of appropriation to:

Township		Range		Meridian	Sec	¼ ¼		Location
27	S	16	E	W.M.	35	SE	SE	Well 6 – 1320 Feet North & 1310 Feet West from SE Corner, Section 35

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 pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
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. 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

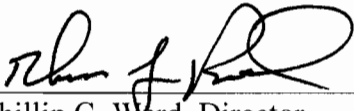
The temporary changes in place of use and point of appropriation proposed in application T-9823 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The changes in place of use and point of appropriation proposed in application T-9823 are approved.
2. The former places of use **shall not** be irrigated as part of this water right 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. A subsequent application for permanent transfer of Certificates 80753 and 67902 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 Certificates 80753 and 67902.
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 of water at the new points of appropriation, 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 Certificates 80753 and 67902 shall continue to be in accordance with the terms and conditions of Certificates 80753 and 67902.

Dated at Salem, Oregon this 14th day of June, 2005.



for
Phillip C. Ward, Director

Mailing date: JUN 24 2005