# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-11529, Benton County	)	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** 

TOM GORACKE 26744 MCFARLAND RD MONROE, OR 97456 Agent

DAN O'BRIEN 2848 CHAPEL DRIVE CORVALLIS, OR 97333

# Findings of Fact

- 1. On February 6, 2013, TOM GORACKE filed an application to temporarily change the place of use under Certificate 24030 for a period of 5 years. The Department assigned the application number T-11529.
- 2. Notice of the application for transfer was published on February 12, 2013, 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:** 24030 in the name of C. B. READER (perfected under Permit S-21749)

Use: IRRIGATION of 20.0 ACRES

**Priority Date:** SEPTEMBER 4, 1952

Rate: 0.25 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5

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.

acre-feet per acre for each acre irrigated during the irrigation season of each

year.

Source: MUDDY CREEK tributary of MARYS RIVER

Authorized Point of Diversion or Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Additional Measurement Data
14 S	5 W	WM	9	SW NW	Within Belcher DLC #41

## Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres		
14 S	5 W	WM	4	SW SW	41	1.4		
14 S	5 W	WM	5	SE SE	41	0.2		
14 S	5 W	WM	8	NE NE	41	14.2		
14 S	5 W	WM	9	NW NW	41	4.2		
	20.0							

4. Temporary Transfer Application T-11529 proposes to temporarily change the place of use of the right to:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres		
14 S	5 W	WM	4	SW SW	41	13.9		
14 S	5 W	WM	4	SW SW	41	1.1		
14 S	5 W	WM	4	SW SW	41	1.6		
14 S	5 W	WM	9	NW NW	41	3.4		
Total Acres:						20.0		

5. Temporary Transfer Application T-11529 proposes to temporarily transfer a water right within the boundaries of Greenberry Irrigation District. The district was notified of the proposed temporary transfer and indicated that the district did not object to the transfer.

## Temporary Transfer Review Criteria

- 6. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
- 8. The proposed change would not result in enlargement of the right.
- 9. 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(5) 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 Temporary Transfer Application T-11529 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

### Now, therefore, it is ORDERED:

- 1. The temporary change in place of use proposed in Temporary Transfer Application T-11529 is approved.
- 2. The former place of use **shall not** be irrigated as part of this water right during the 2013, 2014, 2015, 2016 and 2017 irrigation seasons.
- 3. The use shall revert to the authorized place of use at the end of the 2017 irrigation season. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
- 4. A subsequent application for permanent transfer of Certificate 24030 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.
- 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 24030.
- 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. The use of the remaining water right described by Certificate 24030 shall continue to be in accordance with the terms and conditions of Certificate 24030.

Dwight Forch Water Right Services Administrator, for PHILLIP C. WARD, DIRECTOR

Dated at Salem, Oregon this 2 day of March, 2013.

Mailing Date: APR 0 3 2013