

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-12323, Umatilla County) TEMPORARY CHANGES IN PLACE
) OF USE

Authority

Oregon Revised Statute (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 appropriation 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

WALLA WALLA VALLEY APPELLATION LLC
NORM MCKIBBEN, MANAGING PARTNER
83501 LOWER DRY CREEK RD
MILTON FREEWATER, OR 97862

Findings of Fact

1. On March 25, 2016, Walla Walla Valley Appellation LLC, Norm McKibben, Managing Partner, filed an application to temporarily change the place of use under Certificate 86441 for a period of 5 years. The Department assigned the application number T-12323.
2. Notice of the application for transfer was published on April 5, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the right to be transferred is as follows:
Certificate: 86441 in the name of SEVEN HILLS PROPERTIES LLC (perfected under Permit G-15883)
Use: IRRIGATION of 135.1 ACRES
Priority Date: OCTOBER 8, 2004
Rate: 1.49 CUBIC FEET PER SECOND
Period of Allowed Use: March 1 through October 31
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

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 irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WELLS within the DRY CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	35 E	WM	3	SW SE	1156 FEET NORTH AND 314 FEET EAST FROM THE S1/4 CORNER OF SECTION 3
5 N	35 E	WM	4	NE NW	930 FEET SOUTH AND 1355 FEET EAST FROM THE NW CORNER OF SECTION 4
5 N	35 E	WM	4	NE SW	375 FEET SOUTH AND 940 FEET WEST FROM THE CENTER 1/4 CORNER OF SECTION 4
5 N	35 E	WM	4	NE SW	415 FEET SOUTH AND 500 FEET WEST FROM THE CENTER 1/4 CORNER OF SECTION 4

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	35 E	WM	4	NW SW	10.0
5 N	35 E	WM	4	SW SW	3.8
5 N	35 E	WM	4	SE SW	1.5
5 N	35 E	WM	5	NW NW	4.1
5 N	35 E	WM	5	NE SW	4.0
5 N	35 E	WM	5	NE SE	13.2
5 N	35 E	WM	5	NW SE	31.4
5 N	35 E	WM	9	NE NW	26.2
5 N	35 E	WM	9	NW NW	15.6
5 N	35 E	WM	9	SW NW	16.1
5 N	35 E	WM	9	SE NW	7.9
5 N	35 E	WM	9	NW SW	1.3
Total:					135.1

4. Transfer Application T-12323 proposes to diminish the right to supplemental irrigation on the proposed lands as described in the table below:

Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	35 E	WM	4	NE NW	39.3
5 N	35 E	WM	4	NW NW	30.5
5 N	35 E	WM	4	SE NW	42.0
6 N	35 E	WM	33	SW SW	6.2
6 N	35 E	WM	33	SE SW	17.1
Total:					135.1

5. The intent of this transfer is to allow use of Certificate 88639 as the primary water right on the "to" lands, where a junior water right may be regulated off.

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 are 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 and points of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-12323 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and points of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-12323 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2016, 2017, 2018, 2019 and 2020 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2020 irrigation season.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificate 86441 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 Certificate 86441.
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. 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 appropriation (new and existing).
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
9. The use of the remaining water right described by Certificate 86441 shall continue to be in accordance with the terms and conditions of Certificate 86441.

Dated at Salem, Oregon this 17 day of June 2016.



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

JUN 23 2016

Mailing Date: _____