

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-10156, Crook County)	TEMPORARY CHANGE IN POINT OF
)	APPROPRIATION AND 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 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

KELLY R MCFARLANE
2150 NE WAMPLER LANE
POWELL BUTTE OR 97757

Findings of Fact

1. On April 27, 2006, Kelly R Mcfarlane filed an application to temporarily change the point of appropriation and place of use under Certificate 80689 for a period of one year. The Department assigned the application number T-10156.

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

Certificate: 80689 in the name of WAMPLER AND WERTH FARMS (perfected under Permit G-8720)

Use: IRRIGATION of 5 ACRES

Priority Date: DECEMBER 11, 1978

Rate: 0.06 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3 acre feet per acre per year

Source: FIVE WELLS in the CROOKED RIVER Basin.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an 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 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:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
15 S	14 E	WM	11	SW NE	2060 FEET SOUTH AND 2600 FEET WEST FROM THE NE CORNER OF SECTION 11
15 S	14 E	WM	11	NE SW	2550 FEET NORTH AND 2550 FEET EAST FROM THE SW CORNER OF SECTION 11
15 S	14 E	WM	11	NE SW	2370 FEET NORTH AND 2550 FEET EAST FROM THE SW CORNER OF SECTION 11
15 S	14 E	WM	11	SW SE	980 FEET NORTH AND 1950 FEET WEST FROM THE SE CORNER OF SECTION 11
15 S	14 E	WM	11	SW SE	1090 FEET NORTH AND 1480 FEET WEST FROM THE SE CORNER OF SECTION 11

Authorized Place of Use:

IRRIGATION

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	14 E	WM	11	SW SW	5.0

- The applicant has indicated that the well located at 2550 FEET NORTH AND 2550 FEET EAST FROM THE SW CORNER OF SECTION 11, NE SW, Section 11, T15S R14E is being used for those authorized acres listed above.
- A change in point of appropriation is necessary to convey the water to the proposed temporary place of use. . Application T-10156 proposes to move the authorized point of appropriation approximately 5.5 miles in a southwesterly direction to:

Twp	Rng	Mer	Sec	GLot	Survey Coordinates
16 S	14 E	WM	3	4	1230 FEET SOUTH AND 300 FEET EAST FROM THE NW CORNER OF SECTION 3

- Application T-10156 proposes to change the place of use of the right to:

IRRIGATION

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
15 S	14 E	WM	34	SW SE		1.0
16 S	14 E	WM	3		2	2.0
16 S	14 E	WM	3		1	1.5
16 S	14 E	WM	4	SE SE		0.5

- 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.
- Application T-10156 proposes to temporarily transfer water rights within the boundaries of the Central Oregon Irrigation District. The district was notified of the proposed temporary transfer and did not provide any comments.
- Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
10. The proposed change would not result in enlargement of the right.
11. 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

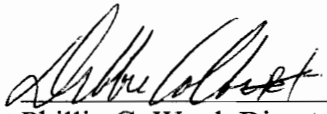
The temporary changes in point of appropriation and place of use proposed in application T-10156 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The changes in point of appropriation and point of appropriation and place of use proposed in application T-10156 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2006 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2006 irrigation season. The authorization to use the point of diversion shall be terminated concurrently.
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 Certificate 80689 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 80689.
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 point of diversion, 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 80689 shall continue to be in accordance with the terms and conditions of Certificate 80689.

Dated at Salem, Oregon this 28th day of July 2006.



Phillip C. Ward, Director

Mailing Date: AUG 0 2 2006