

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

In the Matter of Transfer Application)	FINAL ORDER
T-10484, Umatilla County)	APPROVING A CHANGE
)	IN PLACE OF USE

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use 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

THOMAS C. BRANSTETTER
609 NW DESPAIN AVENUE
PENDLETON, OR 97801

Agent

HENRY LORENZEN
PO BOX 218
PENDLETON, OR 97801

Findings of Fact

Background

1. On October 29, 2007, Thomas C. Branstetter filed an application to change the place of use under Certificates 54085 and 54086. The Department assigned the application number T-10484.
2. The applicant submitted a revised transfer application and map on March 19, 2008, so that the number of acres proposed for transfer matched the figures shown on the application map.
3. On October 16, 2008, the applicant amended the application once again and revised the map to correctly describe the number of acres proposed for transfer under each water right.
4. The portion of the FIRST right to be transferred is as follows:

Certificate: 54085 in the name of THOMAS E. BRANSTETTER (perfected under Permit G-6932)

Use: IRRIGATION of 109.4 ACRES

Priority Date: JULY 16, 1976

Rate: 1.37 CUBIC FEET PER SECOND (cfs)

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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.
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Limit/Duty: ONE-EIGHTIETH of one cfs per acre, further limited to a diversion of not to exceed 3.0 acre-feet per acre per year during the irrigation season

Source: A WELL within the STAGE GULCH BASIN

Authorized Point of Appropriation: (same well for both rights)

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	30 E	WM	1	SW NE	250 feet North & 1300 feet West from the E¼ corner of Section 1

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
3 N	30 E	WM	1	NE NE	16.0
3 N	30 E	WM	1	NW NE	9.2
3 N	30 E	WM	1	SW NE	7.7
3 N	30 E	WM	1	SE NE	9.5
3 N	30 E	WM	1	NE SE	7.9
3 N	30 E	WM	1	NW SE	7.9
3 N	30 E	WM	1	SW SE	8.3
3 N	30 E	WM	1	SE SE	8.3
3 N	30 E	WM	12	NE NE	9.2
3 N	30 E	WM	12	NW NE	9.2
3 N	30 E	WM	12	SW NE	7.6
3 N	30 E	WM	12	SE NE	8.6
TOTAL:					109.4

5. Application T-10484 proposes to change the place of use to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
3 N	30 E	WM	12	NE NW	27.35
3 N	30 E	WM	12	NW NW	27.35
3 N	30 E	WM	12	SW NW	27.35
3 N	30 E	WM	12	SE NW	27.35
TOTAL:					109.4

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

Certificate: 54086 in the name of THOMAS C. BRANSTETTER (perfected under Permit G-9285)

Use: IRRIGATION of 109.4 ACRES

Priority Date: MARCH 12, 1981

Rate: 1.37 CUBIC FEET PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH of one cfs per acre, further limited to a diversion of not to exceed 3.0 acre-feet per acre per year during the irrigation season

Source: A WELL within the STAGE GULCH BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
3 N	30 E	WM	1	SW NE	250 feet North & 1300 feet West from the E1/4 Corner of Section 1

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
3 N	30 E	WM	12	SW NE	1.60
3 N	30 E	WM	12	NE NW	26.95
3 N	30 E	WM	12	NW NW	26.95
3 N	30 E	WM	12	SW NW	26.95
3 N	30 E	WM	12	SE NW	26.95
TOTAL:					109.4

7. Transfer Application T-10484 proposes to change the place of use of the above described right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
3 N	30 E	WM	1	NE NE	16.0
3 N	30 E	WM	1	NW NE	9.2
3 N	30 E	WM	1	SW NE	7.7
3 N	30 E	WM	1	SE NE	9.5
3 N	30 E	WM	1	NE SE	7.9
3 N	30 E	WM	1	NW SE	7.9
3 N	30 E	WM	1	SW SE	8.3
3 N	30 E	WM	1	SE SE	8.3
3 N	30 E	WM	12	NE NE	9.2
3 N	30 E	WM	12	NW NE	9.2
3 N	30 E	WM	12	SW NE	7.6
3 N	30 E	WM	12	SE NE	8.6
TOTAL:					109.4

8. Notice of the application for transfer was published on November 6, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. On November 6, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10484 to the applicant. The draft Preliminary Determination set forth a deadline of December 6, 2008, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
10. On December 29, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10484 and mailed a copy to the applicant and his agent. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on January 6, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

11. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
12. A well, pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-10484.
13. Currently, the landowner has an identical temporary transfer (T-10536) in effect for five years, as approved by Special Order Volume 74, page 376. Upon the issuance of a Final Order approving this permanent transfer application (T-10484), temporary transfer T-10536 will be rescinded, become null and void, and be of no further force and effect.
14. The proposed change would not result in enlargement of the rights.
15. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in place of use proposed in Transfer Application T-10484 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-10484 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 54085 and 54086 and any related decree.
3. Water right Certificates 54085 and 54086 are cancelled. New certificates will be issued describing those portions of the rights NOT affected by this transfer.
4. The former place of use of the transferred rights shall no longer receive water under the rights.
5. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
6. Upon the issuance of a Final Order approving this transfer application (T-10484), temporary transfer T-10536 will become null and void and of no further force or effect.
7. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.

8. When satisfactory proof of the completed change is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 10th day of February 2009.


R- Phillip C. Ward, Director

Mailing date: FEB 18 2009