

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

| | | |
|---------------------------------------|---|---------------------------|
| In the Matter of Transfer Application |) | FINAL ORDER APPROVING A |
| T-10196, Baker County |) | TEMPORARY CHANGE 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 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

ROSS E. AND JACQUELYN A. FRITZ
48862 ANTHONY LAKES HIGHWAY
NORTH POWDER OR 97867

Findings of Fact

1. On June 8, 2006, Ross E. and Jacquelyn A. Fritz filed an application to temporarily change the place of use under Certificate 1470 for a period of five years. The Department assigned the application number T-10196.

2. The portion of the right to be transferred is as follows:
Certificate: 1470 in the name of W.R. HUTCHINSON (confirmed by North Powder River decree)
Uses: IRRIGATION of 18.0 ACRES
Priority Date: 1899
Rate: 0.37 CUBIC FOOT PER SECOND (CFS) from March 1st to July 1st and 0.22 CFS from July 1st to October 1st of each year
Limit/Duty: the total quantity diverted during each irrigation season shall not to exceed 45 acre feet
Source: NORTH POWDER RIVER, tributary to POWDER RIVER

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 Diversion:

Gardener Mill Race Ditch and Hutchinson Hillside Ditch

Authorized Place of Use:

| Twp | Rng | Mer | Sec | Q-Q | Acres |
|-----|------|-----|-----|-------|-------|
| 7 S | 38 E | WM | 2 | NW NE | 9.5 |
| 7 S | 38 E | WM | 2 | SW NE | 1.2 |
| 7 S | 38 E | WM | 2 | NE NW | 7.3 |

3. Application T-10196 proposes to change the place of use of the right to:

| Twp | Rng | Mer | Sec | Q-Q | Acres |
|-----|------|-----|-----|-------|-------|
| 7 S | 38 E | WM | 2 | SW NE | 5.0 |
| 7 S | 38 E | WM | 2 | SE NW | 13.0 |

4. Notice of the application for temporary transfer was published on June 27, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
5. 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.
6. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
7. The proposed change would not result in enlargement of the right.
8. 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 change in place of use proposed in application T-10196 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in application T-10196 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2006, 2007, 2008, 2009 and 2010 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2010 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 Certificate 1470 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 1470.
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. When required by the Department, 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 1470 shall continue to be in accordance with the terms and conditions of Certificate 1470.

Dated at Salem, Oregon this 31ST day of July 2006.


Phillip C. Ward, Director

Mailing Date: AUG 02 2006