

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-11007, Crook County) TEMPORARY CHANGES 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

MILL CREEK LAND, LLC
ATTN: MARK COPELAND
7900 NE MILL CREEK RD
PRINEVILLE, OR 97754

Findings of Fact

1. On January 14, 2010, MILL CREEK LAND, LLC filed an application to temporarily change the place of use under Certificates 83657 and 83658 for a period of 5 years. The Department assigned the application number T-11007.
2. The portion of the first right to be temporarily transferred is as follows:

Certificate: 83657 in the name of MILL CREEK LAND, LLC (confirmed by Crooked River Decree)
Use: IRRIGATION of 14.8 ACRES
Priority Date: 1868
Rate: 0.19 CUBIC FEET PER SECOND
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually beneficially, the total quantity being limited to 4 acre feet per acre during each year, if available at the authorized point of diversion: NO NAME DITCH, or its equivalent in case of rotation, measured at the point of diversion from the source.
Source: MILL CREEK, tributary to OCHOCO CREEK

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.

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	17 E	WM	22	SE SE	1122 FEET NORTH AND 346 FEET WEST FROM THE NW CORNER OF SECTION 26

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	17 E	WM	26	NW NE	5.00
14 S	17 E	WM	26	SW NE	5.60
14 S	17 E	WM	26	NE NW	1.80
14 S	17 E	WM	26	SE NW	2.40

3. Temporary Transfer Application T-11007 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	17 E	WM	26	SW SW	13.50
14 S	17 E	WM	35	NW NW	1.30

4. The portion of the second right to be temporarily transferred is as follows:

Certificate: 83658 in the name of MILL CREEK LAND, LLC; AND DENNIS AND SARA DICE (confirmed by Crooked River Decree)

Use: IRRIGATION of 14.8 ACRES

Priority Date: 1880

Rate: 0.185 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually beneficially used, the total quantity being limited to four acre feet per acre during each year, if available at the original point of diversion: SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, T 14 S, R 17 E, W.M.; Ochoo Ditch – 350 feet South and 350 feet East from the NW corner SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, or its equivalent in case of rotation, measured at the point of diversion from the source.

Source: OCHOCO CREEK, tributary to the CROOKED RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	17 E	WM	35	SE NW	2018 FEET SOUTH AND 2605 FEET EAST FROM THE NW CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	17 E	WM	26	SW SW	13.50
14 S	17 E	WM	35	NW NW	1.30

5. Temporary Transfer Application T-11007 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	17 E	WM	26	NW NE	5.00
14 S	17 E	WM	26	SW NE	5.60
14 S	17 E	WM	26	NE NW	1.80
14 S	17 E	WM	26	SE NW	2.40

6. Notice of the application for temporary transfer was published on pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

Temporary Transfer Review Criteria

7. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
8. Pumps, pipelines, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
9. The proposed changes would not result in enlargement of the rights.
10. The proposed changes 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 place of use proposed in Temporary Transfer Application T-11007 are 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 proposed in Temporary Transfer Application T-11007 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2010, 2011, 2012, 2013 and 2014 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2014 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 Certificates 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 Certificates 83657 and 83658.
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. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
9. The use of the remaining water rights described by Certificates 83657 and 83658 shall continue to be in accordance with the terms and conditions of Certificates 83657 and 83658.

Dated at Salem, Oregon this 17th day of February, 2010.



bc Phillip C. Ward, Director

Mailing Date: FEB 22 2010