

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11444, Polk and Yamhill Counties) TEMPORARY CHANGE 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

ROBERT AND BETTY JANZEN
20555 SE WEBFOOT RD
DAYTON, OR 97114

Findings of Fact

1. On July 9, 2012, Robert and Betty Janzen filed an application to temporarily change the place of use under Certificate 64748 for a period of 5 years. The Department assigned the application number T-11444.

2. On July 11, 2012, the applicants submitted an amended application clarifying the proposed place of use.

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

Certificate: 64748 in the name of PALMER CREEK WATER DISTRICT
IMPROVEMENT CO. (perfected under Permit S-32243)
Use: IRRIGATION of 51.3 ACRES AND SUPPLEMENTAL IRRIGATION of
 26.7 ACRES
Priority Date: APRIL 14, 1967
Rate: 0.78 CUBIC FOOT PER SECOND
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) and

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.

2.5 acre-feet for each acre irrigated during the irrigation season of each year. The right allowed herein is limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

Source: WILLAMETTE RIVER, a tributary of COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	3 W	WM	4	NW SW	58	4700 FEET NORTH AND 1290 FEET EAST FROM THE SE CORNER OF DLC 58

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	3 W	WM	6	SE SW	58	20.8
6 S	3 W	WM	6	SW SE		30.5
Total						51.3

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	3 W	WM	6	SE SE	4	26.7

4. Temporary Transfer Application T-11444 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	3 W	WM	20	NE SW	2.00
5 S	3 W	WM	20	SW SW	0.36
5 S	3 W	WM	20	SE SW	4.20
5 S	3 W	WM	20	NW SE	3.50
5 S	3 W	WM	20	SW SE	7.50
5 S	3 W	WM	29	NW NE	14.00
5 S	3 W	WM	29	SW NE	4.10
5 S	3 W	WM	29	NE NW	0.04
5 S	3 W	WM	29	NE NW	11.10
5 S	3 W	WM	29	SW NW	0.60
5 S	3 W	WM	29	SE NW	3.90
Total					51.30

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	3 W	WM	20	SW SE	13.2
5 S	3 W	WM	20	SW SE	13.5
Total					26.7

5. Notice of the application for transfer was published on July 10, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

6. Temporary Transfer Application T-11444 proposes to temporarily transfer a water right within the boundaries of Palmer Creek Water District Improvement Company. The district was notified of the proposed temporary transfer and indicated that the district did not object to the transfer.

Temporary Transfer Review Criteria

7. 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.
8. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
9. The proposed change would not result in enlargement of the right.
10. 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 proposed in application Temporary Transfer Application T-11444 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary change in place of use proposed in Temporary Transfer Application T-11444 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2012, 2013, 2014, 2015, and 2016 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2016 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 64748 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 64748.

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 right described by Certificate 64748 shall continue to be in accordance with the terms and conditions of Certificate 64748.

Dated at Salem, Oregon this 10 day of August, 2012.



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

AUG 15 2012
Mailing Date: _____