

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-10779, Washington County	)	TEMPORARY 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 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 Agent**

SHERWOOD SCHOOL DISTRICT  
23295 SW MAIN ST.  
SHERWOOD, OR 97140

MARTHA O. PAGEL  
530 CENTER ST. NE, SUITE 400  
SALEM, OR 97301

**Findings of Fact**

**Background**

1. On February 6, 2009, SHERWOOD SCHOOL DISTRICT filed an application to temporarily change the place of use under Certificate 85185 for a period of five years. The Department assigned the application number T-10779.
2. The portion of the right to be transferred is as follows:
  - Certificate:** 85185 in the name of WALTER W. LABAHN (perfected under Permit G-11787)
  - Use:** IRRIGATION of 10.18 ACRES
  - Priority Date:** JUNE 21, 1991
  - Rate:** 0.127 CUBIC FOOT PER SECOND (cfs)
  - 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 for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5

<p>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.</p>
---

acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** A WELL in the CHICKEN CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	1 W	WM	30	NW SW	795 FEET SOUTH AND 1015 FEET EAST FROM THE NW CORNER, NWSW, OF SECTION 30

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	1 W	WM	30	NE SW	0.82
2 S	1 W	WM	30	NW SW	9.36

- Temporary Transfer Application T-10779 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	1 W	WM	30	NE SW	6.05
2 S	1 W	WM	30	SW SW	4.13

- Notice of the application for temporary transfer was published on February 17, 2009, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

**Temporary Transfer Review Criteria**

- Water has been used within the last five years according to the terms and conditions of the right. There is no evidence in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
- The proposed change would not result in enlargement of the right.
- 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 Temporary Transfer Application T-10779 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-10779 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2009, 2010, 2011, 2012 and 2013 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2013 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 85185 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 85185.
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(s) of appropriation, 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 85185 shall continue to be in accordance with the terms and conditions of Certificate 85185.

Dated at Salem, Oregon this 17<sup>th</sup> day of March, 2009.

*For* William E. Febyer  
Phillip C. Ward, Director

Mailing Date: MAR 24 2009