

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

In the Matter of Transfer Application)	FINAL ORDER TO DENY
T-8808, Yamhill County, Oregon)	TEMPORARY CHANGES IN 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 or 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

Robert and Betty Janzen
20555 SE Webfoot Rd.
Salem, OR 97114

Findings of Fact

1. Robert and Betty Janzen filed an application to temporarily transfer the place of use under Certificate 64748. The Department assigned the application number T-8808.
2. Certificate 64748 is a supplemental irrigation water right. There are two water rights underlying this supplemental right, being Certificate 22789, for primary irrigation, and Certificate 22810, for supplemental irrigation. In order to transfer the supplemental water right, the applicant must also transfer the primary right.
3. On March 10, 2004, the Department sent the applicant a letter describing the above issue and noting several additional deficiencies in the application. No response was received to that letter.
4. Notice of the application for temporary transfer was published 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.

This is a final order in other than 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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

6. The Department is unable to determine, based upon information provided in the application, whether a diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
7. The Department is unable to determine, based upon information provided in the application, that the proposed change would not result in enlargement of the right.
8. The Department is unable to determine, based upon information provided in the application, that the proposed change would not result in injury to other water rights.

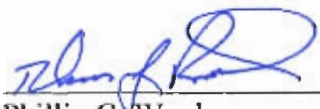
Conclusions of Law

The temporary changes in place of use proposed in application T-8808 are not consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The changes in place of use proposed in application T-8808 are denied.

Dated at Salem, Oregon this 8th day of September, 2004.



Phillip C. Ward
Acting Director

Mailing date: SEP 14 2004

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1271