BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-9641, Deschutes 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

Charles Woolsey 19330 Pinehurst Rd. Bend, OR 97701

Findings of Fact

- 1. Charles Woolsey filed an application to temporarily transfer the place of use under Certificate 74147 for a period of 5 years to lands owned by Joel Gisler. The Department assigned the application number T-9641.
- 2. The portion of the right to be transferred is as follows:

Certificate: 74147 in the name of Tumalo Irrigation District

Use: Irrigation

Priority Date: October 29, 1913

Season of Use: April I to November 1, further limited as follows:

April 1 to May 1 and October 1 to November 1 described herein as

Season 1

May I to May 15 and September 15 to October 1 described herein as

Season 2

May 15 to September 15 described herein as Season 3

Quantity:

Season 1:

0.04 Cubic Foot per Second (CFS)

Season 2:

0.05 CFS

Season 3:

0.09 CFS

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.

Rate/Duty: Season 1: Limited to 1/80th CFS per acre

Season 2: Limited to 1/60th CFS per acre

Season 3: Limited to 1/32.4th CFS per acre

Not to exceed 9.91 Acre-Feet (AF) per acre

Acres: 3.0 acres

Source: Tumalo Creek, Crater Creek, Little Crater Creek and Three Spring

Branches, tributaries of the Deschutes River

Authorized Points of Appropriation:

Tow	nship	Rai	nge	Meridian	Sec	1/4 1/4		1/4 1/4		1/4 1/4		Location
17	S	11	Е	W.M.	23	SW	SW NE Tumalo Creek #1 - N 70° 21' W, 1550 fee the E 1/4 Corner of Section 23					
18	S	10	Е	W.M.	2	NW	SW	Tumalo Creek #2 - N 14° 02' E, 1713 feet from the S 1/4 Corner of Section 2				

Authorized Place of Use:

Township		Range		Meridian	Sec	1/4 1/4	Lot	Acres	
16	S	11	Е	W.M.	25	SW NW	400	2.5	
16	S	11	E	W.M.	25	SE NW	400	0.5	
							Total	3.0	

3. Application T-9641 proposes to change the place of use of the right to:

Tow	nship	Range		Range Meridian		Meridian	Sec	1/4 1/4		Lot	Acres
16	S	11	Е	W.M.	27	SE	NW	214	1.2		
16	S	11	Е	W.M.	27	SE	NW	208	1.3		
								Total	3.0		

- 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. The application identifies two supplemental rights associated with the primary right to be temporarily transferred. The applicant has identified that the supplemental water rights, being Certificates 74148 and 76520, shall remain at the authorized place of use during the term of the temporary transfer and shall not be exercised.
- 6. 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.
- 7. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
- 8. The proposed change would not result in enlargement of the right.

9. 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-9641 are 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-9641 are approved.
- The former place of use shall not be irrigated as part of this water right, or under supplemental water right Certificates 74148 and 76520, during the 2004, 2005, 2006, 2007 and 2008 irrigation seasons.
- 3. The supplemental water right Certificates 74148 and 76520 may not be used at the temporary place of use.
- 4. The use shall revert to the authorized place of use at the end of the 2008 irrigation season.
- 5. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
- 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 80295.
- 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 use of the remaining water right described by Certificate 80295 shall continue to be in accordance with the terms and conditions of Certificate 80295.

Dated at Salem, Oregon this 2th day of September, 2004.

Phillip C. Ward Acting Director

Mailing date: SEP 1 4 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