

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

|                                       |   |                              |
|---------------------------------------|---|------------------------------|
| In the Matter of Transfer Application | ) | FINAL ORDER APPROVING A      |
| T-11372, Polk County                  | ) | TEMPORARY CHANGE IN PLACE OF |
|                                       | ) | USE AND TERMINATING PREVIOUS |
|                                       | ) | TEMPORARY TRANSFER T-11211   |

**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**

BRYCE AND CARRIE CRUICKSHANK  
5465 RED PRAIRIE RD  
SHERIDAN, OR 97378

**Findings of Fact**

1. On March 16, 2012, BRYCE AND CARRIE CRUICKSHANK filed an application to temporarily change the place of use under Certificate 24673 for a period of 5 years. The Department assigned the application number T-11372.

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

**Certificate:** 24673 in the name of HERMAN ENDRES (perfected under Permit S-22421)

**Use:** IRRIGATION of 20.0 ACRES

**Priority Date:** JUNE 24, 1952

**Rate:** 0.25 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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.

**Source:** MILL CREEK, tributary to the YAMHILL RIVER (SOUTH YAMHILL RIVER)

**Authorized Point of Diversion:**

| Twp | Rng | Mer | Sec | Q-Q   | DLC | Measured Distances |
|-----|-----|-----|-----|-------|-----|--------------------|
| 6 S | 6 W | WM  | 27  | NW SW | 54  | NONE GIVEN         |

**Authorized Place of Use:**

| IRRIGATION |     |     |     |       |     |       |
|------------|-----|-----|-----|-------|-----|-------|
| Twp        | Rng | Mer | Sec | Q-Q   | DLC | Acres |
| 6 S        | 6 W | WM  | 27  | NE SW | 54  | 13.2  |
| 6 S        | 6 W | WM  | 27  | NW SE | 54  | 6.8   |

- Temporary Transfer Application T-11372 proposes to temporarily change the place of use of the right to:

| IRRIGATION |     |     |     |       |     |       |
|------------|-----|-----|-----|-------|-----|-------|
| Twp        | Rng | Mer | Sec | Q-Q   | DLC | Acres |
| 6 S        | 6 W | WM  | 27  | NW SW | 54  | 11.0  |
| 6 S        | 6 W | WM  | 27  | SW SW |     | 9.0   |

- Notice of the application for transfer was published on March 20, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On March 16, 2011, the applicants filed an application to temporarily transfer the place of use under Certificate 24673 for a period of five years. The Department assigned the application number T-11211.
- A Final Order approving T-11211 was issued on April 22, 2011, as evidenced by Special Order Volume 83, pages 1060-1063. The Final Order contains a condition reverting the water right to the authorized place of use at the end of the 2015 irrigation season.
- Concurrent with the filing of Transfer Application T-11372, the applicants requested that the temporary transfer under application T-11211 be terminated upon approval of Transfer Application T-11372.

***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 available 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.

10. The proposed change would not result in enlargement of the right.
11. 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**

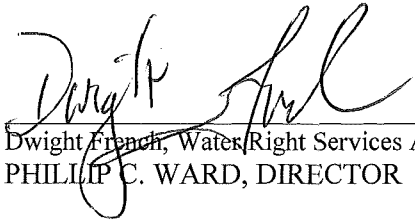
Termination of Temporary Transfer T-11211 in advance of the 2015 irrigation season is consistent with OAR 690-380. The temporary change in place of use proposed in Temporary Transfer Application T-11372 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

### **Now, therefore, it is ORDERED:**

1. Temporary Transfer T-11211 as evidenced by Special Order Volume 83, pages 1060-1063, is terminated and is of no further force or effect.
2. The temporary change in place of use proposed in Temporary Transfer Application T-11372 is approved.
3. The former place of use **shall not** be irrigated as part of this water right during the 2012, 2013, 2014, 2015, and 2016 irrigation seasons.
4. The use shall revert to the authorized place of use at the end of the 2016 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. A subsequent application for permanent transfer of Certificate 24673 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.
7. 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 24673.
8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
9. When required by the Department, the water user shall install, maintain and operate a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

10. The use of the remaining water right described by Certificate 24673 shall continue to be in accordance with the terms and conditions of Certificate 24673.

Dated at Salem, Oregon this 20 day of April, 2012.



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

Mailing Date: APR 23 2012