

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-9941, Polk County, Oregon) TEMPORARY CHANGE 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

The Olsen Farms Limited Partnership/
Hiram G. Olsen Revocable Living Trust
8930 Suver Road
Monmouth, Oregon 97361

Findings of Fact

1. The Olsen Farms Limited Partnership/ Hiram G. Olsen Revocable Living Trust filed an application to temporarily transfer the place of use under Certificate 81322 for a period of five years. The Department assigned the application number T-9941.

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

Certificate: 81322 in the name of Hiram G. Olsen
Use: Primary and Supplemental Irrigation of 13.8 acres
Priority Date: August 19, 1993
Quantity: March 1 through July 31 - 0.14 cubic foot per second (cfs) live flow from Luckiamute River
March 1 through October 31 - 8.42 acre-feet stored water from Willamette Basin Project Reservoirs (or as may be further limited by the Bureau of Reclamation water supply contract)
Source: Luckiamute River for Primary Irrigation and Willamette Basin Project Reservoirs, constructed under Permit R-1625, for Supplemental Irrigation, tributaries to the Willamette River

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 137-004-0080 you may either 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.

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Location
9	S	4	W	W.M.	27	SE SW	20 Feet North & 700 Feet West from S¼ Corner, Section 27
9	S	4	W	W.M.	23	SE SW	450 Feet North & 1520 Feet East from SW Corner, Section 23

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Acres
9	S	4	W	W.M.	26	SW NW	12.2
9	S	4	W	W.M.	26	NW NW	1.6

3. Application T-9941 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Acres
9	S	4	W	W.M.	27	NW NE	3.0
9	S	4	W	W.M.	27	NE NE	10.8

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. Application T-9941 proposes to temporarily transfer water rights served by a Bureau of Reclamation storage project. The Bureau was notified of the proposed temporary transfer and did not provide any comments.
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 pump, pipeline, and sprinkler system 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. 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 application T-9941 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in application T-9941 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2005, 2006, 2007, 2008 and 2009 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2009 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 81322 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 81322.
7. The use of water authorized under this order is subject to compliance with the terms and conditions of a water service contract or other agreement with the Bureau of Reclamation or any other entity responsible for the release and delivery of water to the right.
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 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.
10. The use of the remaining water right described by Certificate 81322 shall continue to be in accordance with the terms and conditions of Certificate 81322.

Dated at Salem, Oregon this 20th day of July, 2005.


Phillip C. Ward, Director