

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

In the Matter of Transfer Application        )  
T-10539, Umatilla County                 )  
   )        FINAL ORDER APPROVING A  
   )        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**  
CRAIG COLEMAN  
33896 E WALLS ROAD  
HERMISTON OR 97838

**Agent**  
WILLIAM PORFILY  
P.O. BOX 643  
STANFIELD OR 97875

**Findings of Fact**

1. On February 14, 2008 Craig Coleman filed an application to temporarily change the place of use under Certificates 83422 and 83447 for a period of TWO years. The Department assigned the application number T-10539.

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

**Certificate:** 83422 in the name of CRAIG COLEMAN (perfected under Permit G-1671)

**Use:** IRRIGATION of 21.7 ACRES

**Priority Date:** JUNE 28, 1960

**Rate:** 0.27 CUBIC FOOT PER SECOND (CFS) from either well

**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet for each acre irrigated during the irrigation season of each year

**Source:** TWO WELLS in the UMATILLA RIVER BASIN

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.

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	27 E	WM	27	NE SE	1420 FEET NORTH AND 490 FEET WEST FROM SE CORNER OF SECTION 27.
4 N	27 E	WM	27	NE SE	1350 FEET NORTH AND 430 FEET WEST FROM SE CORNER OF SECTION 27.

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
4 N	27 E	WM	27	SE SW	300	16.4
4 N	27 E	WM	27	SW SE	600	5.3

3. Application T-10539 proposes to change the places of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
4 N	27 E	WM	27	SE SW	300	4.1
4 N	27 E	WM	27	SW SE	600	1.6
4 N	27 E	WM	36	NW NW	1100	13.5
4 N	27 E	WM	36	NW SW	1800	2.5

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

**Certificate:** 83447 in the name of CRAIG COLEMAN (perfected under Permit G-3822)

**Use:** SUPPLEMENTAL IRRIGATION of 21.7 ACRES

**Priority Date:** FEBRUARY 15, 1968

**Rate:** 0.27 CUBIC FOOT PER SECOND (CFS) from either well

**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet for each acre irrigated during the irrigation season of each year

**Source:** WELL 8 in the UMATILLA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	27 E	WM	26	SW NW	1160 FEET NORTH AND 370 FEET EAST FROM W ¼ CORNER OF SECTION 26.

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
4 N	27 E	WM	27	SE SW	300	16.4
4 N	27 E	WM	27	SW SE	600	5.3

5. Application T-10539 proposes to change the places of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
4 S	27 E	WM	27	SE SW	600	4.1
4 S	27 E	WM	27	SW SE	300	1.6
4 N	27 E	WM	35	NW NW	1100	13.5
4 N	27 E	WM	36	NW SW	1800	2.5

6. Notice of the application for temporary transfer was published on February 26, 2008 pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to that notice.
7. Application T-10539 proposes to temporarily transfer water rights within the boundaries of the County Line Improvement District. On February 21, 2008 the Department notified the District of the proposed temporary transfer.
8. Water has been used within the last five years according to the terms and conditions of the rights. No evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
10. To avoid the possibility of enlargement, on March 18, 2008 the applicant proposed additional conditions, including a stringent program to monitor soil moisture on the lands subject to this transfer, upon which drip irrigation will be used and on the lands between the drip irrigated rows that will be dried up.
11. The proposed change in place of use, as conditioned, will not result not result in enlargement of the right.
12. The proposed change will 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-10539, as conditioned, is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

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

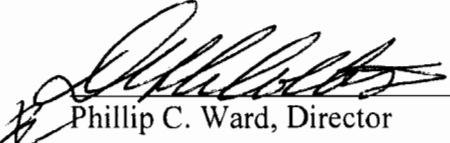
1. The temporary change in place of use proposed in application T-10539, subject to the soil moisture monitoring requirements listed below, is approved.
2. The water user shall install and maintain a water flow and soil moisture monitoring system.
  - a) The water user shall install and maintain valves and in-line flow meters or other suitable devices for controlling, measuring and recording the quantity of water diverted. In-line flow meters shall be installed at each well and each field control manifold serving the drip irrigated areas. The type and plans of the valves and measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
  - b) The water user shall operate and maintain the valves and measuring devices, as needed. The Watermaster may monitor the system and accuracy of the measuring devices, as needed.
  - c) The monitoring system shall include Gro-Point Sensors or a similar monitoring system capable of accuracy that is equivalent to, or superior to the level of accuracy provided by the Gro-Point system. If other than a Gro-Point soil moisture monitoring system is used, the type of system and installation plans must be approved by the Watermaster prior to installation.
  - d) The soil moisture monitoring system shall include one monitoring station for each type of crop grown and for every 100 acres of each major soil type. Soil types or crop types with less than 100 acres shall have one monitoring station per soil or crop type. Each monitoring station shall consist of one access tube located outside the irrigated area and paired access tubes with one tube located in the crop row and a second tube located midway between the crop rows. Additional soil moisture monitoring stations shall be installed as required by the Watermaster where conditions dictate more monitoring stations are required to effectively determine irrigation is occurring only where there is an appurtenant water right. The monitoring program, including both the number and location of the monitoring sites shall be approved by the Watermaster prior to installation.
  - e) The data from the moisture monitoring system shall be continuously monitored or collected at a minimum of weekly intervals. The soil moisture content shall be monitored beginning one week prior to the irrigation season and continuing until one week past the end of the irrigation season. Soil moisture data collected from the monitoring system shall be reported to the Watermaster in summary format including equipment used and monitoring data listed by station and measurement field, as approved by the Watermaster.
  - f) Soil moisture reports shall be made during the first week prior to the irrigation season and once per week during the first three weeks of the irrigation season. Unless otherwise required by the Watermaster, soil moisture data collected after the third week of the irrigation season shall be reported to the Watermaster by the 5<sup>th</sup> day of the month following the month for which the data was collected. Reporting requirements may be

modified, after the third week of the irrigation season, as dictated by the Watermaster or upon written request from the water user subject to approval of the Watermaster. However, review of the monitoring program can occur at any time with a formal request from the water user or the Watermaster. Modification to the monitoring program may occur at any time as deemed necessary and/or appropriate by the Watermaster.

- g) Upon reasonable notice the water user shall provide the Watermaster access to metering equipment and moisture monitoring stations as well as access to monitoring data and flow data, including access to real time data on an internal web site or computer.
  - h) The water user shall promptly inform the Watermaster of any situation that results in the application of water to any land without a water right, including but not limited to the areas between crop rows. The water user shall also inform the Watermaster of the course of action taken by the water user to correct the problem and prevent the future occurrence of similar events.
  - i) If water is applied to lands without water rights, including but not limited to, the area between the crop rows, the Watermaster may regulate the water use until the soil moisture and flow data demonstrate that the areas without water rights are no longer receiving water.
  - j) If, at any time after the third week of irrigation, the Watermaster determines that the water user has not taken all necessary precautions to ensure that areas without appurtenant water rights, including areas between crop rows, are not receiving water this temporary transfer may be terminated. If this transfer is terminated, the water rights subject to this transfer will revert to their original place of use.
3. The former place of use **shall not** be irrigated as part of this water right during the 2008 and 2009 irrigation seasons.
  4. The use shall revert to the authorized place of use at the end of the 2009 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 Certificates 83422 and 83447 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 Certificates 83422 and 83447 and any related decree.
  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. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
10. The use of the remaining water right described by Certificates 83422 and 83447 shall continue to be in accordance with the terms and conditions of Certificates 83422 and 83447 and any related decree.

Dated at Salem, Oregon this 25 day of March 2008.

  
Phillip C. Ward, Director

Mailing Date MAR 28 2008