

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

In the Matter of Transfer Application        )  
T-10943, Lane County                            )  
  )

FINAL ORDER APPROVING A  
TEMPORARY CHANGE IN PLACE OF  
USE

**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**

JOE BREWER  
28305 GOWDYVILLE ROAD  
LORANE OR 97451

**Findings of Fact**

1. On August 17, 2009, JOE BREWER filed an application to temporarily change the place of use under Certificate 827 for a period of 5 years. The Department assigned the application number T-10943.
2. The portion of the right to be temporarily transferred is as follows:

**Certificate:** 827 in the name of GEORGE C. SCHNEIDER (perfected under Permit S-423)  
**Use:** IRRIGATION of 13.2 ACRES  
**Priority Date:** SEPTEMBER 13, 1910  
**Rate:** 0.17 CUBIC FOOT PER SECOND  
**Source:** KELLY CREEK, tributary to the SOUTH FORK SUISLAW RIVER

**Authorized Point(s) of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	4 W	WM	30	SW SE	NONE GIVEN

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 Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
20 S	4 W	WM	30	SE SW	4	13.2

- Temporary Transfer Application T-10943 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
20 S	4 W	WM	30	SW SE	6	11.0
20 S	4 W	WM	31	NW NE		2.2

- Notice of the application for temporary transfer was published on pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

***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.
- The proposed change would not result in enlargement of the right.
- 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 Temporary Transfer Application T-10943 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

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

- The temporary change in place of use proposed in Temporary Transfer Application T-10943 is approved.
- The former place of use **shall not** be irrigated as part of this water right during the 2009, 2010, 2011, 2012, and 2013 irrigation season.
- The use shall revert to the authorized place of use at the end of the 2013 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 827 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 827.
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 water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
9. The use of the remaining water right described by Certificate 827 shall continue to be in accordance with the terms and conditions of Certificate 827.
10. The use of water under Permit 52415 shall not be exercised when water is available for use on the same lands under Certificate 827.

Dated at Salem, Oregon this 9<sup>th</sup> day of October, 2009.

  
Phillip C. Ward, Director *PW*

Mailing Date: OCT 13 2009