BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11264, Polk County)	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

BETHEL HEIGHTS VINEYARD, INC. 6060 BETHEL HEIGHTS RD NW SALEM, OR 97304

Findings of Fact

Limit/Duty:

- 1. On June 27, 2011, BETHEL HEIGHTS VINEYARD INC. filed an application to temporarily change the place of use under Certificate 85812 for a period of five years. The Department assigned the application number T-11264.
- 2. The right to be temporarily transferred is as follows:

Certificate: 85812 in the name of BETHEL HEIGHTS VINEYARD INC. (perfected

under Permit S-45289)

Use: IRRIGATION OF 22.9 ACRES

Priority Date: AUGUST 22, 1980

Rate: 0.29 CUBIC FOOT PER SECOND

under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, 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

The amount of water used for irrigation, together with the amount secured

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.

Sources:

AN UNNAMED STREAM AND RESERVOIR, CONSTRUCTED UNDER PERMIT R-5880, tributaries to SPRING VALLEY CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	4 W	WM	23	SW NW	930 FEET NORTH AND 1240 FEET EAST FROM THE W¼ CORNER OF SECTION 23

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	
6 S	4 W	WM	22	NE SE	4.5	
6 S	4 W	WM	23	NW SW	18.4	

3. Temporary Transfer Application T-11264 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	
6 S	4 W	WM	22	SW NW	3.6	
6 S	4 W	WM	23	SE NW	19.3	

4. Notice of the application for transfer was published on July 5, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

Temporary Transfer Review Criteria

- 5. 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.
- 6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
- 7. The proposed change would not result in enlargement of the right.
- 8. 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-11264 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 Temporary Transfer Application T-11264 is approved.
- 2. The former place of use **shall not** be irrigated as part of this water right during the 2011, 2012, 2013, 2014, and 2015 irrigation seasons.
- 3. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at the point of diversion.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device are located within a private structure, the Watermaster shall request access upon reasonable notice.
- 4. The use shall revert to the authorized place of use at the end of the 2015 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 85812 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 85812.
- 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.

Dated at Salem, Oregon this	8	day of August, 2011.
and Sol		

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

Mailing Date: _____ AUG 0 9 2011