

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

In the Matter of Transfer Application            )     FINAL ORDER APPROVING A  
T-10646, Yamhill County                        )     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 transfer the point of appropriation, place of use, or character of use 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**

ERIC LEMELSON  
12025 NE STAG HOLLOW ROAD  
CARLTON, OREGON 97111

**Findings of Fact**

**Background**

1. On June 3, 2008, Eric Lemelson filed an application to change the place of use under Certificate 84177. The Department assigned the application number T-10646.
2. The portion of the right to be transferred is as follows:

**Certificate:** 84177 in the name of ERIC LEMELSON (perfected under Permit G-13790)  
**Use:** IRRIGATION of 19.34 ACRES  
**Priority Date:** MARCH 16, 1999  
**Rate:** 0.049 CUBIC FOOT PER SECOND  
**Limit/Duty:** The amount used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH cfs per acre, further limited to a diversion of not to exceed 2.5 acre-feet per acre irrigated during the irrigation season of each year (April 1 through October 31).  
**Source:** A WELL in the STAG HOLLOW CREEK BASIN

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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 Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	4 W	WM	13	SE NE	89	510 FEET SOUTH AND 840 FEET WEST FROM THE SW CORNER OF M. OLDS DLC 48

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	3 W	WM	7	NW SW	73	7.30
3 S	4 W	WM	12	NE SE	89	12.04

3. Transfer Application T-10646 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	4 W	WM	12	SE SW	49	0.05
3 S	4 W	WM	12	SW SE	49	9.60
3 S	4 W	WM	12	SE SE	49	2.29
3 S	4 W	WM	13	NE NE	49	1.74
3 S	4 W	WM	13	NW NE	49	5.66

4. Notice of the application for transfer was published on June 17, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On October 27, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10646 to the applicant. The cover letter for the draft Preliminary Determination set forth a deadline of November 28, 2008, for the applicant to respond. By the deadline, the applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
6. On February 17, 2009, the Department issued a Preliminary Determination proposing to approve Transfer T-10646 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on February 24, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

***Transfer Review Criteria (OAR 690-380-4010)***

7. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-10646.
9. The proposed change would not result in enlargement of the right.

10. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

The change in place of use proposed in Transfer Application T-10646 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

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

1. The change in place of use proposed in Transfer Application T-10646 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 84177 and any related decree.
3. Water right certificate 84177 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The former place of use of the transferred right shall no longer receive water under the right.
5. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
6. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
7. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 30<sup>th</sup> day of March 2009.

*William E. Feber*  
B. Phillip C. Ward, Director

Mailing date: APR 08 2009