

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10644, Umatilla County) 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

WILLIAM ELFERING
1889 E. HIGHLAND AVE.
HERMISTON, OR 97838

Findings of Fact

1. On June 5, 2008, William Elfering filed an application to temporarily change the place of use under Certificate 51220 for a period of one year. The Department assigned the application number T-10644.

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

Certificate: 51220 in the name of FRANK E. and DOYLENE M. DYE (perfected under Permit G-6268)

Use: IRRIGATION of 6.0 ACRES

Priority Date: DECEMBER 2, 1974

Rate: 0.07 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3 acre-feet per acre during the irrigation season of each year

Source: A WELL in the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	28 E	WM	12	SE SE	150 FEET NORTH AND 760 FEET WEST FROM THE SE CORNER OF SECTION 12

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
4 N	29 E	WM	7	SW SW	2	6.0

3. Transfer Application T-10644 proposes to change the place of use of the right to a different location within the same quarter-quarter to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	29 E	WM	7	SW SW	2	6.0

4. Notice of the application for temporary transfer was published on June 24, 2008, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
5. Transfer Application T-10644 proposes to temporarily transfer water rights within the boundaries of Stanfield Irrigation District. The district 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 there is no information in the record 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. To avoid the possibility of enlargement, on July 8, 2008, the applicant's agent agreed to additional conditions including a program to monitor soil moisture on the lands subject to transfer as well as lands that do not have appurtenant water rights (specifically, the lands between the drip irrigated rows).
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 as proposed in Transfer Application T-10644, as conditioned, 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 Transfer Application T-10644 is approved, subject to the conditions listed below.
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 the well and each field control manifold serving the drip irrigated areas. The type and plans of the valves and measuring devices along with the installation must be approved by the Department.
- b) The water user shall operate and maintain the valves and measuring devices. 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 Gro-Point soil moisture monitoring system is used, the type of system and installation plans must be approved by the Watermaster.
- d) The soil moisture monitoring system shall include one monitoring station for each type of crop grown and for each major soil type. Each monitoring station shall consist of one moisture sensor located outside the irrigated area and paired moisture sensors with one sensor located in the crop row and a second sensor 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.
- e) The data from the moisture monitoring system shall be continuously monitored or collected at a minimum of weekly intervals. 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 once per week during the first three weeks of irrigation. Unless otherwise required by the Watermaster, soil moisture data collected after the third week of irrigation shall be reported to the Watermaster by the 5th day of the month following the month for which the data was collected. Reporting requirements may be modified, after the third week of irrigation, 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.
3. 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.
4. The former place of use **shall not** be irrigated as part of this water right during the 2008 irrigation season.
5. The use shall revert to the authorized place of use at the end of the 2008 irrigation season.
6. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
7. A subsequent application for permanent transfer of Certificate 51220 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.
8. 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 51220.
9. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
10. The use of the remaining water right described by Certificate 51220 shall continue to be in accordance with the terms and conditions of Certificate 51220.

Dated at Salem, Oregon this 31ST day of July, 2008.



Phillip C. Ward, Director

Mailing Date: AUG 01 2008