

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10658, Marion 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

DAVID J. BIELENBERG
16425 HERIGSTAD RD. NE
SILVERTON, OR 97381

Findings of Fact

1. On June 23, 2008, David J. Bielenberg filed an application to temporarily change the place of use under Certificate 81530 for a period of one year. The Department assigned the application number T-10658.

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

Certificate: 81530 in the name of DAVID J. BIELENBERG (perfected under Permit G-10100)

Use: IRRIGATION of 35.0 ACRES

Priority Date: APRIL 28, 1983

Rate: 0.44 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season of each year

Source: A WELL in the ABIQUA CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
6 S	1 E	WM	19	NE NE	THOMAS DLC 48	1050 FEET NORTH AND 100 FEET EAST FROM THE SW CORNER OF DLC 48

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:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 E	WM	20	NE NW	THOMAS DLC 48	7.9
6 S	1 E	WM	20	NW NW	THOMAS DLC 48	27.1

3. Transfer Application T-10658 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 E	WM	19	SW NE	THOMAS DLC 48	10.1
6 S	1 E	WM	19	SE NW	THOMAS DLC 48	24.9

4. Notice of the application for temporary transfer was published on July 1, 2008, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
5. 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.
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 as proposed in Transfer Application T-10658 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-10658 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2008 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2008 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 81530 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 81530.
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 81530 shall continue to be in accordance with the terms and conditions of Certificate 81530.

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


Phillip C. Ward, Director

Mailing Date: AUG 01 2008