

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-9602, Linn County, Oregon) TEMPORARY CHANGE IN
) PLACE OF USE

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 diversion or 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 Whitehead
37990 Gilkey Road
Scio, Oregon, 97374

Findings of Fact

1. David Whitehead filed an application to temporarily transfer the place of use under Certificate 37315 for a period of five years. The Department assigned the application number T-9602.

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

Certificate:	37315 in the name of Buckray, Inc.
Use:	Irrigation
Priority Date:	December 21, 1966
Quantity:	0.16 cubic foot per second
Rate/Duty:	1/80 cfs per acre, not to exceed 2.5 acre-feet per acre
Acres:	12.51 Acres
Source:	A well, in the Thomas Creek Basin

<p>This is a final order in other than 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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.</p>

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Location
10	S	2	W	W.M.	22	SW	NE		65	3520 feet North and 1450 feet West from the SE Corner of Calavan DLC 65.

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
10	S	2	W	W.M.	22	NE	SE		65	1.80
10	S	2	W	W.M.	22	NW	SE		65	10.71

3. Application T-9602 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
10	S	2	W	W.M.	22	SE	SE		58	8.10
10	S	2	W	W.M.	23	SW	SW		58	4.41

4. Notice of the application for temporary transfer was published 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 no evidence is 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.

Conclusions of Law

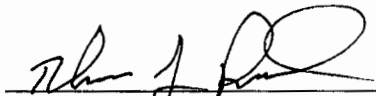
The temporary change in place of use proposed in application T-9602 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in application T-9602 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2004, 2005, 2006, 2007 and 2008 irrigation seasons.
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. 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 37315.
6. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
7. The use of the remaining water right described by Certificate 37315 shall continue to be in accordance with the terms and conditions of Certificate 37315.

Dated at Salem, Oregon this 12th day of July, 2004.


For Phillip C. Ward
Acting Director

Mailing date: JUL 15 2004

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1271