

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10660, Baker 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

CRAIG WARD
19271 HUGHES LANE
BAKER CITY, OR 97814

Findings of Fact

1. On June 23, 2008, Craig Ward filed an application to temporarily change the place of use under Certificate 73529 for a period of five years. The Department assigned the application number T-10660.
2. On June 25, 2008, the applicant submitted a revised application and map identifying 20.0 acres for transfer.
3. The portion of the right to be transferred is as follows:

Certificate: 73529 in the name of WARD AGRICULTURAL PROPERTIES (perfected under Permit U-165)

Use: IRRIGATION of 20.0 ACRES

Priority Date: JUNE 23, 1945

Rate: 0.27 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-FORTIETH cfs per acre during the irrigation season of each year

Source: WELL 1 in the POWDER RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q
9 S	40 E	WM	7	SE NW

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:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	40 E	WM	9	NW SW	20.0

4. Transfer Application T-10660 proposes to change the place of use of the right to:

PRIMARY IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
9 S	39 E	WM	12	NE NE	1800	8.0
9 S	39 E	WM	12	SE NE	1800	12.0

5. Notice of the application for temporary transfer was published on July 8, 2008, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
6. Transfer Application T-10660 proposes to temporarily transfer water rights within the boundaries of the Baker Valley Irrigation District. The district was notified of the proposed temporary transfer and did not provide any comments.
7. Certificate 73610 is appurtenant to some of the land from which Temporary Transfer T-10660 is proposed to be transferred. The applicant has indicated that the supplemental irrigation under Certificate 73610 shall remain unexercised during the term of this temporary transfer.
8. 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.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
10. The proposed change would not result in enlargement of the right.
11. 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

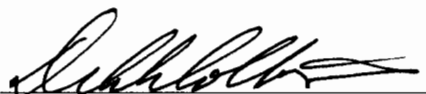
The temporary change in place of use as proposed in Transfer Application T-10660 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The change in place of use as proposed in Transfer Application T-10660 is approved.

2. The former place of use **shall not** be irrigated as part of this water right during the 2008, 2009, 2010, 2011 and 2012 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2012 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 73529 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 73529.
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 authorized place of use for supplemental irrigation under Certificate 73610 **shall not** be exercised during the term of this temporary transfer.
9. When required by the Department, the water user shall install, maintain and operate an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
10. When required by the Department, the water user shall install, maintain and operate a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
11. The use of the remaining water right described by Certificate 73529 shall continue to be in accordance with the terms and conditions of Certificate 73529.

Dated at Salem, Oregon this 7th day of August, 2008.


Phillip C. Ward, Director

Mailing Date: AUG 13 2008