

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10808, Morrow 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 COLEMAN
33896 E WALLS RD.
HERMISTON, OR 97838

WILLIAM I. PORFILY
PO BOX 643
STANFIELD, OR 97875

Findings of Fact

Background

1. On March 9, 2009, CRAIG COLEMAN filed an application to temporarily change the place of use under CertificateS 56159 and 56160 for a period of five (5) years. The Department assigned the application number T-10808.

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

Certificate: 56159 in the name of HOMER G, PRICHARD (perfected under Permit G-6386)
Use: IRRIGATION of 47.6 ACRES
Priority Date: FEBRUARY 12, 1976
Rate: 0.6 CUBIC FOOT PER SECOND (cfs)
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3

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.

acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WELL #2 within the COLUMBIA RIVER BASIN

Authorized Point(s) of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	10	SW SW	1310 FEET NORTH AND 140 FEET EAST FROM THE SW CORNER OF SECTION 10

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	10	SW SW	22.6
4 N	25 E	WM	10	SE SW	25.0

3. Temporary Transfer Application T-10808 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	10	SW SW	11.8
4 N	25 E	WM	10	SE SW	35.8

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

Certificate: 56160 in the name of HOMER G PRICHARD (perfected under Permit G-7065)

Use: IRRIGATION of 22.6 ACRES

Priority Date: DECEMBER 23, 1976

Rate: 0.28 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WELL #2 within the COLUMBIA RIVER BASIN

Authorized Point(s) of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	10	SW SW	1310 FEET NORTH AND 140 FEET EAST FROM THE SW CORNER OF SECTION 10

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	9	SE SE	22.6

5. Temporary Transfer Application T-10808 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	10	SW SW	22.6

6. Notice of the application for temporary transfer was published on March 17, 2009, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

Temporary Transfer Review Criteria

7. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are 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 rights are present.
9. The proposed changes would not result in enlargement of the rights.
10. The proposed changes 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 changes in place of use proposed in Transfer Application T-10808 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use proposed in Temporary Transfer Application T-10808 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2009, 2010, 2011, 2012 and 2013 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2013 irrigation season.

4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificates 56159 and 56160 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(s) 56159 and 56160.
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 rights described by Certificates 56159 and 56160 shall continue to be in accordance with the terms and conditions of Certificates 56159 and 56160.

Dated at Salem, Oregon this 17th day of April, 2009.


for Phillip C. Ward, Director

Mailing Date: APR 21 2009