

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-9507, Marion County, Oregon) TEMPORARY CHANGES IN PLACE
) OF USE

ORS 540.523 establishes the process in which a water right holder may submit a request to temporarily transfer the place of use 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

Bryan Schurter
10115 Kaufman Rd. NE
Silverton, OR 97381

Findings of Fact

1. Bryan Schurter filed an application to temporarily transfer the place of use under Certificates 27084, 28467, and 30819. The Department assigned the application number T-9507.

2. The rights to be modified are as follows:

Certificate: 27084 in the name of Eldon S. Alt, perfected under Permit S-224660

Use: Supplemental Irrigation

Priority Date: January 22, 1957

Quantity: The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.045 cubic foot per second (cfs), if available at the authorized point of diversion, or its equivalent in case of rotation, measured at the well.

Acres: 3.5 acres

Source: The Pudding River, tributary to the Willamette River

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼		Location	
7	S	1	W	W.M.	7	SE	SE	As projected within DLC 50, 402 feet north and 1285 feet west from the SE corner of Section 7	

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
7	S	1	W	W.M.	7	SW	SE	00400	50	0.5
7	S	1	W	W.M.	7	SE	SE	00400	50	3.0

Certificate: 28467 in the name of Eldon S. Alt, perfected under Permit S-26268

Use: Irrigation

Priority Date: July 13, 1959

Quantity: The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 3.5 acre-feet, if available at the authorized point of diversion, or its equivalent in case of rotation, measured at the well.

Acres: 3.5 acres

Source: A reservoir constructed under Application R-33230, Permit R-2260, tributary to the Willamette River

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼		Location	
7	S	1	W	W.M.	7	SW	SE	As projected within DLC 50	

The point of diversion described is as listed on Certificate 28467.

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
7	S	1	W	W.M.	7	SW	SE	00400	50	0.5
7	S	1	W	W.M.	7	SE	SE	00400	50	3.0

Certificate: 30819 in the name of Eldon S. Alt, perfected under Permit S-26860
Use: Supplemental Irrigation
Priority Date: July 15, 1960
Quantity: The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 4.0 acre-feet, if available at the authorized point of diversion, or its equivalent in case of rotation, measured at the well.
Acres: 3.5 acres
Source: A reservoir constructed under Application R-34322, Permit R-2371, tributary to the Pudding River

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼		Location	
7	S	1	W	W.M.	7	SE	SE	As projected within DLC 50	

The point of diversion described is as listed on Certificate 28467.

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
7	S	1	W	W.M.	7	SW	SE	00400	50	0.5
7	S	1	W	W.M.	7	SE	SE	00400	50	3.0

3. The right to use the water for the above purposes is restricted to beneficial use on the lands or place of use described.
4. Certificate 27084: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to 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 2.5 acre-feet for each acre irrigated during the irrigation season of each year.
5. Certificate 28467: 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 not to exceed 2.5 acre-feet for each acre irrigated during the irrigation season of each year and shall be further limited to a total diversion of not to exceed 3.5 acre-feet per year.

6. Certificate 30819: 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 not to exceed 2.5 acre-feet for each acre irrigated during the irrigation season of each year and shall be further limited to a total diversion of not to exceed 4.0 acre-feet per year.
7. The use shall conform to any reasonable rotation system ordered by the proper state officer.
8. Application T-9507 proposes to temporarily change the place of use of the described rights to:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
7	S	1	W	W.M.	7	SE SE	00700	49	0.5
7	S	1	W	W.M.	18	NE NE	00700	49	3.0

9. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notices.
10. There is one ground water right located on the lands to be irrigated as a result of this temporary transfer. This right, Certificates 76256, is the subject of temporary transfer application T-9508. The applicant intends to replace the source of water on the lands not irrigated by Certificates 27084, 28467, and 30819, as a result of this transfer (T-9507) with this ground water right.
11. Water has been used within the last five years according to the terms and conditions of the right and no evidence has been submitted which claims that the right is subject to forfeiture under ORS 540.610.
12. The proposed temporary change would not result in enlargement of the right.
13. The proposed temporary change would not result in injury to other water rights.

Conclusions of Law

The proposed temporary changes in place of use in application T-9507 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000 and are approved.

Order

It is hereby ORDERED:

THESE CHANGES TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. These changes are temporary. These changes shall be effective upon issuance of this order.
2. The former place of use **shall not** be irrigated as part of these water rights 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 Certificates 27084, 28467, and 30819.
6. When required by the Department, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. 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.
7. The use of the remaining water rights described by Certificates 27084, 28467, and 30819 shall continue to be in accordance with the terms and conditions of Certificates 27084, 28467, and 30819.

WITNESS the signature of the Water Resources

Director, affixed April 8, 2004



Paul R. Cleary, Director