

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

In the Matter of Transfer Application)
T-11092, Umatilla County)
)
) FINAL ORDER APPROVING
) TEMPORARY CHANGES 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

LEON REESE
1017 NW 12TH ST.
PENDLETON, OR 97801

Findings of Fact

Background

1. On June 21, 2010, LEON REESE filed an application to temporarily change the place of use under Certificates 76273, 84116, and 55613 for a period of 5 years. The Department assigned the application number T-11092.
2. On July 8, 2010, the applicant clarified the proposed place of use by submitting an amended page 9 of the transfer application.
3. The first right to be transferred is as follows:

Certificate: 76273 in the name of LEON A. REESE (perfected under Permit G-5957)

Use: IRRIGATION of 70.8 ACRES

Priority Date: NOVEMBER 30, 1973

Rate: 0.88 CUBIC FOOT PER SECOND

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 3.0

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: A WELL within the STAGE GULCH BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	30 E	WM	9	NW SW	520 FEET SOUTH AND 940 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	9	SW NW	9.50
3 N	30 E	WM	9	SE NW	12.40
3 N	30 E	WM	9	NE SW	28.60
3 N	30 E	WM	9	NW SW	19.20
3 N	30 E	WM	9	SE SW	1.10
TOTAL					70.80

4. Transfer Application T-11092 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	8	SE NE	1.10
3 N	30 E	WM	8	NE SE	5.10
3 N	30 E	WM	9	SW NW	5.40
3 N	30 E	WM	9	SE NW	9.60
3 N	30 E	WM	9	NE SW	13.65
3 N	30 E	WM	9	NW SW	26.00
3 N	30 E	WM	9	SW SW	9.95
TOTAL					70.80

5. The second right to be transferred is as follows:

Certificate: 84116 in the name of LEON REESE (perfected under Permit U-680)

Use: IRRIGATION of 20.55 ACRES

Priority Date: SEPTEMBER 16, 1954

Rate: 0.25 CUBIC FOOT PER SECOND, if available at the original point of appropriation (well), being NW¼ SW¼, Section 9, T 3 N, R 30 E, W.M.; North 21 Degrees 38 Minutes East 2360.47 Feet from the SW Corner of Section 9

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

Source: A WELL within the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	30 E	WM	9	NW SW	2068 FEET NORTH AND 911 FEET EAST FROM THE SW CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	9	NE SW	0.87
3 N	30 E	WM	9	NW SW	19.68
TOTAL					20.55

- The source of water under Certificate 84116 is more accurately described as being within the Stage Gulch Basin.
- Transfer Application T-11092 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	9	SW SW	20.55

- The third right to be transferred is as follows:

Certificate: 55613 in the name of LEON A. REESE (perfected under Permit G-4955)

Use: IRRIGATION of 118.3 ACRES

Priority Date: FEBRUARY 2, 1972

Rate: 0.7 CUBIC FOOT PER SECOND

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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, provided further that in the event of a request for a change in point of appropriation, an additional point of appropriation or repair of this well, the quantity of water allowed herein together with the right perfected under Permit G-8633 shall not exceed 1.34 cfs, the capacity of this well at the time of perfection of this right.

Source: A WELL within the STAGE GULCH BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	30 E	WM	22	SW SW	820 FEET NORTH AND 940 FEET EAST FROM THE SW CORNER OF SECTION 22

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	22	NE SW	20.8
3 N	30 E	WM	22	NW SW	39.6
3 N	30 E	WM	22	SW SW	38.2
3 N	30 E	WM	22	SE SW	19.7
TOTAL					118.3

9. Transfer Application T-11092 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	22	NW NW	1.0
3 N	30 E	WM	22	SW NW	26.8
3 N	30 E	WM	22	SE NW	5.8
3 N	30 E	WM	22	NE SW	23.0
3 N	30 E	WM	22	NW SW	32.6
3 N	30 E	WM	22	SW SW	29.1
TOTAL					118.3

10. The use of water in the SWSW of Section 9, T 3 N, R 30 E, W.M. under Certificate 52824 will not be utilized or transferred during the pendency of this temporary transfer.
11. The use of water in the SWNW, SENW and NESW of Section 22, T 3 N, R 30 E, W.M. under Certificate 56073 will not be utilized or transferred during the pendency of this temporary transfer.
12. Notice of the application for transfer was published on June 29, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

Temporary Transfer Review Criteria

13. 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.
14. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
15. The proposed changes would not result in enlargement of the rights.
16. 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.

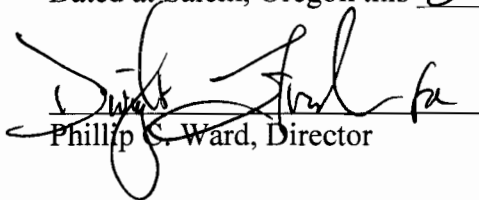
Conclusions of Law

The temporary changes in place of use proposed in Temporary Transfer Application T-11092 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-11092 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2010, 2011, 2012, 2013, and 2014 irrigation seasons.
3. The use of water in the SWSW of Section 9, T 3 N, R 30 E, W.M. under Certificate 52824 will not be utilized or transferred during the pendency of this temporary transfer.
4. The use of water in the SWNW, SENW and NESW of Section 22, T 3 N, R 30 E, W.M. under Certificate 56073 will not be utilized or transferred during the pendency of this temporary transfer.
5. The use shall revert to the authorized place of use at the end of the 2014 irrigation season.
6. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
7. A subsequent application for permanent transfer of Certificates 76273, 84116, and 55613 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.
8. 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 76273, 84116, and 55613.
9. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
10. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.

Dated at Salem, Oregon this 30 day of July 2010.


Phillip C. Ward, Director

Mailing date: AUG 02 2010