

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

In the Matter of Transfer Application) FINAL ORDER APPROVING AN
T-9923, Umatilla County, Oregon) EMERGENCY USE DROUGHT
) TEMPORARY CHANGE IN PLACE OF
) USE

ORS 536.750 establishes the process in which a water right holder may submit a request to temporarily transfer the use, place of use or point of diversion of water without complying with the notice and waiting requirements under ORS 540.520. OAR Chapter 690, Division 019 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

Robert Bellinger
29760 Bellinger Road
Hermiston, Oregon 97838

Findings of Fact

1. Robert Bellinger filed an application to temporarily transfer the place of use under Certificate 76766 for a period of one year or the term of the Governor’s declared drought, whichever is shorter. The Department assigned the application number T-9923.

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

Certificate: 76766 in the name of Thomas E. Huddleston
Use: Supplemental Irrigation of 7.7 acres
 *Primary Irrigation of 12.5 acres to be diminished to Supplemental Irrigation
Priority Date: January 21, 1964
Quantity: 0.25 cubic foot per second (cfs)
Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre
Source: Well No. 1 in the Umatilla River Basin
Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Lot	Location
4	N	28	E	W.M.	18	NE SW	100	10 Feet South and 1110 Feet East from W¼ Corner, Section 18

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 137-004-0080 you may either 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:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres
4	N	28	E	W.M.	18	NE NW	100	2.6
4	N	28	E	W.M.	18	NE NW	100	5.1
4	N	28	E	W.M.	18	SE NW	1300	12.5*

3. Application T-9923 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres
4	N	28	E	W.M.	18	SE NE	301	13.5
4	N	28	E	W.M.	18	SW NE	200	6.7

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. Application T-9923 proposes to temporarily transfer water rights within the boundaries of Westland Irrigation District. The district was notified of the proposed temporary transfer and did not provide any comments.
6. 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.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
8. The proposed change would not result in enlargement of the right.
9. 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

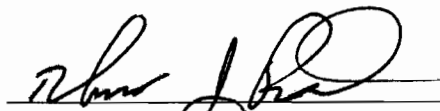
The temporary change in place of use proposed in application T-9923 is consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in application T-9923 is approved.
2. The proposed place of use shall revert to the authorized place of use at the end of the 2005 irrigation season or the end of the Governor’s declared drought, whichever occurs first.

3. Water used under Certificate 76766 at the authorized place of use (FROM lands) for 12.5 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18 together with water used at the proposed place of use (TO lands) for 12.5 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 18 shall not exceed 0.16 cubic foot per second or 37.5 acre-feet during the 2005 irrigation season.
4. Upon approval of this transfer, the authorized place of use (FROM lands) shall not receive any water under the water rights involved with this transfer during the 2005 irrigation season.
5. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
6. Issuance of this temporary drought transfer order may not protect the person receiving the transfer from liability for improper use of the water under the transfer.
7. A subsequent application for permanent transfer of Certificate 76766 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 Certificate 76766.
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. **Prior** to diverting of water at the new point of diversion, the water user **shall** install a *properly operating* in-line flow meter or other suitable device for measuring and recording both the rate and volume of water used at the proposed place of use (TO lands). The type and plans of the measuring device must be approved by the Watermaster.
11. The applicant **shall** report to the Watermaster the volume of water used at the authorized place of use (FROM lands) for the 12.5 acres in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 18, within two weeks from approval of this transfer. The Watermaster may require the applicant to submit a water use report for the proposed place of use ("TO" lands).
12. The use of the remaining water right described by Certificate 76766 shall continue to be in accordance with the terms and conditions of Certificate 76766.

Dated at Salem, Oregon this 31st day of May, 2005.


Phillip C. Ward, Director

Mailing date: JUN 08 2005