

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

In the Matter of Transfer Application)
T-10326, Union County) **FINAL ORDER APPROVING A
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 diversion 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

OREGON STATE UNIVERSITY
EASTERN OREGON AGRICULTURAL RESEARCH CENTER
Attn: Tim DelCurto
PO BOX E; 372 S TENTH STREET
UNION OR 97883

Findings of Fact

1. On February 22, 2007, Oregon State University, Eastern Oregon Agricultural Research Center, filed an application to temporarily change the place of use under Certificates 41056 and 6251 for a period of five years. The Department assigned the application number T-10326.
2. The portion of the first right to be transferred is as follows:

Certificate: 41056 in the name of EASTERN OREGON EXPERIMENT STATION
(perfected under Permit S-30419)

Use: IRRIGATION of 135.8 ACRES

Priority Date: MAY 3, 1965

Rate: 2.41 CUBIC FEET PER SECOND (cfs)

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 3 acre-feet per acre per year

Source: CATHERINE CREEK, tributary to GRANDE RONDE RIVER

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an 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 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 Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 S	40 E	WM	18	SW SW	40 FEET NORTH AND 1120 FEET EAST FROM THE SW CORNER OF SECTION 18

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	39 E	WM	24	NW NE	17.0
4 S	39 E	WM	24	SW NE	40.0
4 S	39 E	WM	24	NE NW	38.3
4 S	39 E	WM	24	SE NW	40.5

3. Transfer Application T-10326 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	39 E	WM	23	NE NE	24.0
4 S	39 E	WM	23	SE NE	40.0
4 S	39 E	WM	24	NW NW	31.8
4 S	39 E	WM	24	SW NW	40.0

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

Certificate: 6251 in the name of EASTERN OREGON EXPERIMENT STATION
(confirmed by Grande Ronde River Decree)

Use: IRRIGATION of 135.8 ACRES

Priority Date: 1867

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 3 acre-feet per acre per year

Source: CATHERINE CREEK, tributary to GRANDE RONDE RIVER

Authorized Point of Diversion:

GODLEY DITCH #1

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	39 E	WM	23	NE NE	24.0
4 S	39 E	WM	23	SE NE	40.0
4 S	39 E	WM	24	NW NW	31.8
4 S	39 E	WM	24	SW NW	40.0

5. Transfer Application T-10326 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	39 E	WM	24	NW NE	17.0
4 S	39 E	WM	24	SW NE	40.0
4 S	39 E	WM	24	NE NW	38.3
4 S	39 E	WM	24	SE NW	40.5

6. Notice of the application for temporary transfer was published on March 13, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
7. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
8. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
9. The proposed change would not result in enlargement of the rights.
10. 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 application T-10326 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.


Now, therefore, it is ORDERED:

1. The changes in place of use proposed in Transfer Application T-10326 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2007, 2008, 2009, 2010 and 2011 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2011 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 Certificates 41056 and 6251 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 Certificates 41056 and 6251.
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 water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.
10. The use of the remaining water right described by Certificates 41056 and 6251 shall continue to be in accordance with the terms and conditions of Certificates 41056 and 6251.

Dated at Salem, Oregon this 27th day of April 2007.



Phillip C. Ward, Director 

Mailing Date: ~~APR 30 2007~~