

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-10401, Yamhill County	)	TEMPORARY CHANGE IN PLACE OF
	)	USE

**Authority**

ORS 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**

LEON EICHLER  
12025 SW LANCEFIELD RD  
MCMINNVILLE OR 97128

**Findings of Fact**

1. On June 6, 2007, Leon Eichler filed an application to temporarily change the place of use under Certificate 33129 for a period of five years. The Department assigned the application number T-10401.
2. The portion of the right to be transferred is as follows:

**Certificate:** 33129 in the name of MERRILL D. OHLING AND ODELL S. OHLING  
(perfected under Permit S-28726)  
**Use:** IRRIGATION of 66.5 ACRES  
**Priority Date:** APRIL 1, 1963  
**Rate:** 0.83 CUBIC FOOT PER SECOND (cfs)  
**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season of each year  
**Source:** SOUTH YAMHILL RIVER, tributary to YAMHILL 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	DLC	Survey Coordinates
5 S	5 W	WM	13	SW SW	Jeffries DLC 67	540 FEET NORTH AND 5200 FEET WEST FROM THE SE CORNER OF GARRISON DLC 66

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	5 W	WM	13	SE SW	Garrison DLC 66	4.2
5 S	5 W	WM	13	SE SW	Jeffries DLC 67	4.2
5 S	5 W	WM	13	SW SE	Jeffries DLC 67	3.5
5 S	5 W	WM	13	SW SE	Garrison DLC 66	5.5
5 S	5 W	WM	13	SE SE	Garrison DLC 66	0.9
5 S	5 W	WM	24	NE NE	Garrison DLC 66	0.5
5 S	5 W	WM	24	NE NE	Jeffries DLC 67	17.0
5 S	5 W	WM	24	NW NE	Jeffries DLC 67	25.7
5 S	5 W	WM	24	NE NW	Jeffries DLC 67	5.0

3. Application T-10401 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	4 W	WM	19	NW NW	6.0
5 S	4 W	WM	19	SW NW	30.0
5 S	4 W	WM	19	NW SW	15.0
5 S	4 W	WM	19	SW SW	3.0
5 S	5 W	WM	24	NE NE	1.0
5 S	5 W	WM	24	SE NE	2.0
5 S	5 W	WM	24	NE SE	8.0
5 S	5 W	WM	24	SE SE	1.5

4. Notice of the application for temporary transfer was published on June 12, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
5. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five year period prior to submittal of Transfer Application T-10401.
7. The proposed change would not result in enlargement of the right.
8. 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.

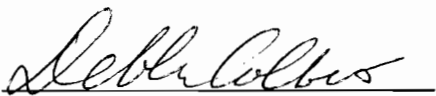
### Conclusions of Law

The temporary change in place of use proposed in Transfer Application T-10401 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

### Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-10401 is 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 Certificate 33129 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 33129.
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. 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.
9. The use of the remaining water right described by Certificate 33129 shall continue to be in accordance with the terms and conditions of Certificate 33129.

Dated at Salem, Oregon this 16<sup>th</sup> day of July 2007.

  
R Phillip C. Ward, Director

Mailing Date: JUL 19 2007