

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-10031, Lake County, Oregon) TEMPORARY CHANGES IN PLACE
) OF USE AND AN ADDITIONAL POINT
) OF APPROPRIATION

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 or 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

The Poplars Ranch Inc.
59234 Fort Rock Rd.
Silver Lake, OR 97638

Agent

Dennis R. Glender
Glender's Hydro Tech Services
8664 SW Sand Ridge Rd
Crooked River Ranch, OR 97760

Findings of Fact

1. The Poplars Ranch, Inc. filed an application to temporarily transfer the place of use; to temporarily add a point of appropriation under Certificates 55099, 55100, 66225, 81489, and 76038; and to temporarily transfer the place of use under Certificate 56502 for a period of five (5) years. The Department assigned the application number T-10031.
2. The portion of the first right to be transferred is as follows:

Certificate: 55099 in the name of Poplars Ranch, Inc.
Use: Irrigation of 2.2 acres
Priority Date: August 21, 1979
Quantity: 0.03 cfs
Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre
Source: A well in the Fort Rock Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Location
26	S	15	E	W.M.	28	SW SE	1320 FEET NORTH AND 1300 FEET EAST FROM S1/4 CORNER, SECTION 28

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	Acres
26	S	15	E	W.M.	28	NE SE	0.55
26	S	15	E	W.M.	28	NW SE	0.55
26	S	15	E	W.M.	28	SW SE	0.55
26	S	15	E	W.M.	28	SE SE	0.55

3. Application T-10031 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Acres
26	S	15	E	W.M.	33	NE NW	2.2

4. An additional point of appropriation is necessary to convey the water to the proposed temporary place of use. Application T-10031 proposes to add a point of appropriation approximately 2640 feet in a southerly direction to:

Township		Range		Meridian	Sec	¼ ¼	Location
26	S	15	E	W.M.	33	NW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER, SECTION 33

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

Certificate: 55100 in the name of Poplars Ranch, Inc.

Use: Irrigation of 61.7 acres

Priority Date: July 15, 1980

Quantity: 0.77 cfs

Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre

Source: A well in the Fort Rock Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Location
26	S	15	E	W.M.	33	SW NE	3950 FEET NORTH AND 1330 FEET WEST FROM SE CORNER, SECTION 33

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Acres
26	S	15	E	W.M.	33	NE NE	18.3
26	S	15	E	W.M.	33	NW NE	9.0
26	S	15	E	W.M.	33	SW NE	13.5
26	S	15	E	W.M.	33	SE NE	20.9

6. Application T-10031 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Acres
26	S	15	E	W.M.	33	NE NW	6.9

Township		Range		Meridian	Sec	¼ ¼	Acres
26	S	15	E	W.M.	33	NW NE	25.05
26	S	15	E	W.M.	33	SW NE	29.75

7. An additional point of appropriation is necessary to convey the water to the proposed temporary place of use. Application T-10031 proposes to add a point of appropriation approximately 2630 feet in a westerly direction to:

Township		Range		Meridian	Sec	¼ ¼	Location
26	S	15	E	W.M.	33	NW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER, SECTION 33

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

Certificate: 66225 in the name of Poplars Ranch, Inc.
Use: Irrigation of 21.1 acres
Priority Date: April 6, 1983
Quantity: 0.03 cfs
Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre
Source: A well in the Fort Rock Basin
Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Location
27	S	15	E	W.M.	4	SW NE	1800 FEET SOUTH AND 1120 FEET EAST FROM N1/4 CORNER, SECTION 4

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres
27	S	15	E	W.M.	4	NW NW	4	1.1
27	S	15	E	W.M.	4	SW NW		10.8
27	S	15	E	W.M.	4	SE NW		0.8
27	S	15	E	W.M.	4	NE SW		6.9
27	S	15	E	W.M.	4	NW SW		1.5

9. Application T-10031 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Acres
26	S	15	E	W.M.	33	NW NW	21.1

10. An additional point of appropriation is necessary to convey the water to the proposed temporary place of use. Application T-10031 also proposes to add a point of appropriation approximately 1.12 miles in a northwesterly direction to:

Township		Range		Meridian	Sec	¼ ¼	Location
26	S	15	E	W.M.	33	NW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER, SECTION 33

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

Certificate: 81489 in the name of The Poplars Ranch, Inc.

Use: Irrigation of 82.8 acres

Priority Date: January 9, 1981

Quantity: 1.03 cfs being 0.08 cfs from Section 33 well and 0.95 cfs from Section 34 well.

Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre

Source: A well in the Fort Rock Basin

Authorized Points of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Location
26	S	15	E	W.M.	34	NW SE	1450 FEET NORTH AND 1350 FEET WEST FROM SE CORNER, SECTION 34
26	S	15	E	W.M.	33	NW SW	1330 FEET NORTH AND 1330 FEET WEST FROM THE S1/4 CORNER, SECTION 33

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Acres
26	S	15	E	W.M.	33	NE SW	1.65
26	S	15	E	W.M.	33	NW SW	2.75
26	S	15	E	W.M.	33	SW SW	1.15
26	S	15	E	W.M.	33	SE SW	1.25
26	S	15	E	W.M.	34	SW SE	37.0
26	S	15	E	W.M.	34	SE SE	39.0

12. Application T-10031 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Acres
26	S	15	E	W.M.	33	NE NW	15.4
26	S	15	E	W.M.	33	NW NW	8.4
26	S	15	E	W.M.	33	SW NW	29.5
26	S	15	E	W.M.	33	SE NW	29.5

13. An additional point of appropriation is necessary to convey the water to the proposed temporary place of use. Application T-10031 proposes to add a point of appropriation approximately 2630 feet in a northerly direction from the Section 33 well and approximately 1.5 miles in a northwesterly direction from the Section 34 well to:

Township		Range		Meridian	Sec	¼ ¼	Location
26	S	15	E	W.M.	33	NW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER, SECTION 33

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

Certificate: 76038 in the name of Z X Ranch.
Use: Irrigation of 5.0 acres
Priority Date: September 23, 1974
Quantity: 0.06 cfs
Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre
Source: Well 7 in the Silver Lake Basin
Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Location
26	S	15	E	W.M.	28	SW SW	3957 FEET SOUTH AND 1283 FEET EAST FROM NW CORNER, SECTION 28

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Acres
26	S	15	E	W.M.	28	NE SW	1.25
26	S	15	E	W.M.	28	NW SW	1.25
26	S	15	E	W.M.	28	SW SW	1.25
26	S	15	E	W.M.	28	SE SW	1.25

15. Application T-10031 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Acres
26	S	15	E	W.M.	33	NE NW	5.0

16. An additional point of appropriation is necessary to convey the water to the proposed temporary place of use. Application T-10031 also proposes to add a point of appropriation approximately 2640 feet in a southerly direction to:

Township		Range		Meridian	Sec	¼ ¼	Location
26	S	15	E	W.M.	33	NW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER, SECTION 33

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

Certificate: 56502 in the name of The Poplars Ranch
Use: Irrigation of 64.2 acres
Priority Date: August 21, 1979
Quantity: 0.80 cfs
Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre

Source: Poplar's Well 3 in the Silver Lake (Fort Rock) Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Location
26	S	15	E	W.M.	33	SW NE	3950 FEET NORTH AND 1330 FEET WEST FROM SE CORNER, SECTION 33

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Acres
26	S	15	E	W.M.	33	NE NE	12.3
26	S	15	E	W.M.	33	NW NE	21.5
26	S	15	E	W.M.	33	SW NE	18.9
26	S	15	E	W.M.	33	SE NE	11.5

18. Application T-10031 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Acres
26	S	15	E	W.M.	33	NE NE	29.75
26	S	15	E	W.M.	33	NW NE	4.7
26	S	15	E	W.M.	33	SW NE	29.75

19. 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.
20. 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.
21. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
22. The proposed change would not result in enlargement of the right.
23. 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 and point of appropriation proposed in application T-10031 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 and point of appropriation proposed in application T-10031 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2006, 2007, 2008, 2009 and 2010 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2010 irrigation season. The authorization to use the additional point of diversion shall be terminated concurrently.
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 55099, 55100, 66225, 81489, 76038 and 56502 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 55099, 55100, 66225, 81489, 76038 and 56502.
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. Prior to diverting of water at the new point of diversion, 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 rights described by Certificates 55099, 66225, 81489, 76038 and 56502 shall continue to be in accordance with the terms and conditions of Certificates 55099, 66225, 81489, 76038 and 56502.

Dated at Salem, Oregon this 20th day of January, 2006.

FOR Phillip C. Ward
Phillip C. Ward, Director

Mailing date: JAN 23 2006