

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-12435, Marion County)	A TEMPORARY CHANGE
)	IN PLACE OF USE

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

BRUCE W. ERNST LIVING TRUST
BRUCE W. ERNST TRUSTEE
4406 NE BIRDHAVEN LOOP
NEWBERG, OR 97128

Findings of Fact

1. On July 20, 2016, BRUCE W. ERNST LIVING TRUST, BRUCE W. ERNST TRUSTEE filed an application to temporarily change the place of use under Certificate 34191 for a period of 5 years. The Department assigned the application number T-12435.
2. Notice of the application for transfer was published on July 26, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the right to be transferred is as follows:

Certificate: 34191 in the name of MICHAEL E. HOPFER (perfected under Permit G-2649)
Use: IRRIGATION of 62.9 ACRES
Priority Date: APRIL 30, 1964
Rate: 0.39 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5

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 WILLAMETTE RIVER BASIN

Authorized Point of Appropriation:

Twtp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	2 W	WM	4	SW SE	610 FEET SOUTH AND 960 FEET EAST FROM THE NW CORNER OF DLC 70

Authorized Place of Use:

Twtp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	4	NE SW	70	0.90
4 S	2 W	WM	4	SE SW	70	10.10
4 S	2 W	WM	4	NE SE	70	2.10
4 S	2 W	WM	4	NW SE	70	8.60
4 S	2 W	WM	4	SW SE	70	32.10
4 S	2 W	WM	4	SE SE	70	6.00
4 S	2 W	WM	9	NE NE	70	0.20
4 S	2 W	WM	9	NW NE	70	2.90
Total:						62.90

4. Temporary Transfer Application T-12435 proposes to temporarily change the place of use of the right to:

Twtp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	4	SE SE	70	6.40
4 S	2 W	WM	9	NE NE	70	23.40
4 S	2 W	WM	9	NW NE	70	24.00
4 S	2 W	WM	9	SW NE	70	3.30
4 S	2 W	WM	9	SW NE	70	0.03
4 S	2 W	WM	9	SE NE	70	3.50
4 S	2 W	WM	9	NE NW	70	1.20
4 S	2 W	WM	10	NW NW	70	1.00
4 S	2 W	WM	10	SW NW	70	0.07
Total:						62.90

Temporary Transfer Review Criteria

5. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available 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 are present.
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(5) if the Department later finds that the transfer is causing injury to any existing water right.

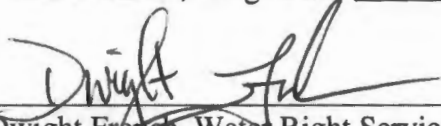
Conclusions of Law

The temporary change in place of use proposed in Temporary Transfer Application T-12435 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary change in place of use proposed in Temporary Transfer Application T-12435 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2016, 2017, 2018, 2019 and 2020, irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2020, 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. Water use measurement conditions:
 - a. **Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
6. A subsequent application for permanent transfer of Certificate 34191 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.
7. 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 34191.
8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
9. The use of the remaining water right described by Certificate 34191 shall continue to be in accordance with the terms and conditions of Certificate 34191.

Dated at Salem, Oregon this 23 day of August 2016.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing Date: AUG 31 2016