

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

In the Matter of Transfer Application)
T-10557, Marion County)
)
) FINAL ORDER APPROVING A
) TEMPORARY CHANGE IN POINT OF
) APPROPRIATION AND 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 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

RICHARD HARI
4566 76TH AVE. NE
SALEM, OR 97305

Findings of Fact

1. On March 13, 2008, Richard Hari filed an application to temporarily change the point of appropriation and place under Certificate 55544 for a period of five years. The Department assigned the application number T-10557.
2. The portion of the right to be transferred is as follows:

Certificate: 55544 in the name of EDWARD A. HARI (perfected under Permit G-7867)

Use: IRRIGATION of 6.27 ACRES

Priority Date: DECEMBER 1, 1977

Rate: 0.08 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: A WELL in the LITTLE PUDDING RIVER BASIN

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Survey Coordinates |
|-----|-----|-----|-----|-------|------------------|---|
| 7 S | 2 W | WM | 2 | SE NW | Murphy DLC 58 | 140 FEET NORTH AND 1260 FEET WEST FROM THE CENTER OF SECTION 2 |

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 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:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 7 S | 2 W | WM | 2 | NW SW | 58 | 0.27 |
| 7 S | 2 W | WM | 2 | NW SW | 59 | 6.00 |

3. Transfer Application T-10557 proposes to change the place of use of the right to:

| IRRIGATION | | | | | |
|------------|-----|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 6 S | 2 W | WM | 27 | SW SW | 1.71 |
| 6 S | 2 W | WM | 34 | NW NW | 4.56 |

4. A change in point of appropriation is necessary to convey the water to the proposed temporary place of use. Transfer Application T-10557 proposes to move the authorized point of appropriation approximately 1.9 miles in a northwesterly direction to:

| Twp | Rng | Mer | Sec | Q-Q | Survey Coordinates |
|-----|-----|-----|-----|-------|---|
| 6 S | 2 W | WM | 34 | NW NW | 239 FEET SOUTH AND 309 FEET EAST FROM THE NW CORNER OF SECTION 34 |

5. Notice of the application for temporary transfer was published on March 18, 2008, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
6. 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.
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 changes in point of appropriation and place of use proposed in Transfer Application T-10557 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The changes in point of appropriation and place of use proposed in Transfer Application T-10557 are approved.

2. The former place of use **shall not** be irrigated as part of this water right during the 2008, 2009, 2010, 2011 and 2012 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2012 irrigation season. The authorization to use the additional point of appropriation 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 Certificate 55544 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 55544.
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 right described by Certificate 55544 shall continue to be in accordance with the terms and conditions of Certificate 55544.

Dated at Salem, Oregon this 25th day of April, 2008.


Phillip C. Ward, Director

Mailing Date: MAY 01 2008