

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

In the Matter of Transfer Application)
T-9691, Umatilla County, Oregon)
)
) FINAL ORDER APPROVING
) TEMPORARY CHANGES IN PLACES
) OF USE AND 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

Jeff Spike
P.O. Box 8
Echo, OR 97826

Findings of Fact

1. Jeff Spike filed an application for a five (5) - year temporary transfer of the place of use under Certificates 76930, 61114 and 54758 and the point of appropriation under Certificate 61114. The Department assigned the application number T-9691.

2. The portion of the first right to be transferred is as follows:

- Certificate:** 76930 in the name of Courtney Irrigation Company confirmed by a decree recorded in the Order Record of the Water Resources Director in Volume 15, at Page 429
- Use:** Irrigation
- Priority Date:** 1900
- Quantity:** 0.98 cfs
- Rate/Duty:** 1/80 cfs per acre, and subject to the limitations of paragraph 32 of the Umatilla River Decree for each acre irrigated during the irrigation season of each year
- Acres:** 78.1
- Source:** Umatilla River, a tributary to the Columbia River

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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Location
3	N	29	E	W.M.	21	SW NE			NORTH 76 DEGREES 45 MINUTES 56 SECONDS EAST 2913.19 FEET FROM THE W ¼ CORNER, SECTION 21

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
3	N	28	E	W.M.	12	NE NE			30.8
3	N	28	E	W.M.	12	NW NE			30.2
3	N	28	E	W.M.	12	SW NE			17.1

3. Application T-9691 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
3	N	29	E	W.M.	18	SW NE			3.8
3	N	29	E	W.M.	18	SE NE			1.4
3	N	29	E	W.M.	18	SE NW			7.4
3	N	29	E	W.M.	18	NE SW			11.7
3	N	29	E	W.M.	18	NE SE			14.3
3	N	29	E	W.M.	18	NW SE			39.1
3	N	29	E	W.M.	18	SW SE			0.4

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

Certificate: 61114 in the name of Spike Ranch, Inc.

Use: Irrigation

Priority Date: September 8, 1983

Quantity: 0.98 cfs

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

Acres: 78.1

Source: A well in the Umatilla River Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Location
3	N	28	E	W.M.	12	NW NE			1300' S and 1390' W from the NE corner SECTION 12

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
3	N	28	E	W.M.	12	NE NE			30.8
3	N	28	E	W.M.	12	NW NE			30.2
3	N	28	E	W.M.	12	SW NE			17.1

5. Application T-9691 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
3	N	29	E	W.M.	18	SW	NE			3.8
3	N	29	E	W.M.	18	SE	NE			1.4
3	N	29	E	W.M.	18	SE	NW			7.4
3	N	29	E	W.M.	18	NE	SW			11.7
3	N	29	E	W.M.	18	NE	SE			14.3
3	N	29	E	W.M.	18	NW	SE			39.1
3	N	29	E	W.M.	18	SW	SE			0.4

6. As is necessary to convey the water to the proposed temporary place of use, Application T-9691 also proposes to move the authorized point of appropriation of Certificate 61114 approximately 1.02 miles in a southeasterly direction to:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Location
3	N	29	E	W.M.	7	SE	SW			Pit well 350 feet north and 3130 feet east from the SW corner, Section 7

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

Certificate: 54758 in the name of ESTATE OF FRED ANDREWS

Use: Irrigation

Priority Date: February 5, 1971

Quantity: 1.45 cfs

Rate/Duty: 1/40 cfs per acre, not to exceed 4.5 acre-feet per acre

Acres: 78.1

Source: Umatilla River, a tributary to the Columbia River

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Location
3	N	29	E	W.M.	21	SW	NE			North 76°45'56" East, 2913.19 feet from West Quarter Corner, Section 21

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
3	N	29	E	W.M.	18	SW	NE			3.8
3	N	29	E	W.M.	18	SE	NE			1.4
3	N	29	E	W.M.	18	SE	NW			7.4
3	N	29	E	W.M.	18	NE	SW			11.7
3	N	29	E	W.M.	18	NE	SE			14.3
3	N	29	E	W.M.	18	NW	SE			39.1

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
3	N	29	E	W.M.	18	SW	SE			0.4

8. Application T-9691 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
3	N	28	E	W.M.	12	NE	NE			30.8
3	N	28	E	W.M.	12	NW	NE			30.2
3	N	28	E	W.M.	12	SW	NE			17.1

9. Notice of the application for this temporary transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notices.

10. 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.

11. Pumps, pipelines, a diversion structure and ditch, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.

12. The proposed change would not result in enlargement of the rights.

13. The proposed change would not result in injury to other water rights if conditioned as required below.

Conclusions of Law

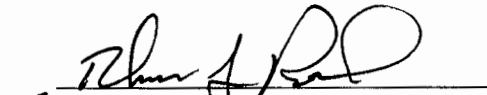
The temporary changes in places of use and point of appropriation proposed in application T-9691 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The changes in place of use and point of appropriation proposed in application T-9691 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2004, 2005, 2006, 2007 and 2008 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2008 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. The use of water at the temporary places of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 76930, 61114 and 54758.

6. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
7. The water user shall install an in-line flow meters or other suitable devices at each diversion or point of appropriation as directed by the Watermaster for measuring and recording the quantity of water diverted or 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.
8. The use of the remaining water rights described by Certificates 76930 and 61114 shall continue to be in accordance with the terms and conditions of Certificates 76930 and 61114.

Dated at Salem, Oregon this 28th day of July, 2004


Phillip C. Ward
Acting Director

Mailing date: JUL 30 2004

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1271