

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11136, Wheeler County)	TEMPORARY CHANGE IN PLACE OF
)	USE AND POINT OF DIVERSION

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

U.S. BUREAU OF LAND MANAGEMENT - PRINEVILLE DISTRICT
H. F. FAVER FIELD MANAGER
3050 NE 3RD STREET
PRINEVILLE, OR 97754

Findings of Fact

1. On September 29, 2010, U.S. BUREAU OF LAND MANAGEMENT – PRINEVILLE DISTRICT filed an application to temporarily change the place of use and change the point of diversion to serve the proposed place of use under Certificate 13575 for a period of five years. The Department assigned the application number T-11136.

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

Certificate: 13575 in the name of JOHN MANNING (confirmed by Bridge Creek Wheeler County Decree)
Use: IRRIGATION OF 3.5 ACRES
Priority Date: 1882
Rate: 0.0875 CUBIC FOOT PER SECOND (CFS) BEFORE JUNE 15 AND 0.04375 CFS AFTER JUNE 15
Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is to an amount actually beneficially used for said purposes, and shall not exceed ONE-FORTIETH of one cubic foot per second per acre of

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.

land irrigated before June 15, and ONE-EIGHTIETH of one cubic foot per second per acre after June 15.

Period of Use: MARCH 1 TO OCTOBER 1

Source: BRIDGE CREEK, tributary to the JOHN DAY RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	20 E	WM	14	SE SE	3.5

3. The applicant submitted information that describes the authorized point of diversion as being located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	20 E	WM	24	NE SW	1797 FEET NORTH AND 1658 FEET EAST FROM THE SW CORNER OF SECTION 24

4. Temporary Transfer Application T-11136 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	20 E	WM	11	NW SW	0.1
10 S	20 W	WM	11	NE SW	3.4

5. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-11136 proposes to move the authorized point of diversion approximately 2 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	20 E	WM	11	NE SW	1585 FEET NORTH AND 1640 FEET EAST FROM THE SW CORNER OF SECTION 11

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

Temporary Transfer Review Criteria

7. 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.
8. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right is present.
9. The proposed change would not result in enlargement of the right.

10. 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 and point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-11136 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 and point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-11136 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2011, 2012, 2013, 2014 and 2015 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2015 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 Certificate 13575 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 13575.
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. 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 diversion.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

9. The use of the remaining water right described by Certificate 13575 shall continue to be in accordance with the terms and conditions of Certificate 13575.

Dated at Salem, Oregon this 20 day of July, 2011.



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing Date: JUL 20 2011