

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

In the Matter of Transfer Application)
T-10922, Yamhill County)
)
) FINAL ORDER APPROVING A
) TEMPORARY CHANGE IN 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

KEVIN COLEMAN
11483 SE AMITY DAYTON HWY
DAYTON, OR 97114

Findings of Fact

Background

1. On June 30, 2009, KEVIN COLEMAN filed an application to temporarily change the place of use authorized under Special Order Volume 62, Page 350 (Transfer T-8909) for a period of four years. The Department assigned the application number T-10922.

2. The right to be transferred is as follows:

- Transfer:** Special Order Volume 62, Pages 349 – 351 (T-8909) – Proof to the Satisfaction of the Director, June 29, 2009
- Use:** IRRIGATION of 92.9 ACRES
- Priority Date:** JANUARY 6, 1994
- Rate:** 1.16 cubic feet per second (cfs), further limited to 0.626 cfs from Well 1 and 0.690 cfs from Well 2
- Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, 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: TWO WELLS within the YAMHILL RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
4 S	3 W	WM	30	NW NW	78	WELL 1 - 820 FEET SOUTH AND 700 FEET WEST FROM SW CORNER OF DLC 48
4 S	3 W	WM	30	NW NW	78	WELL 2 - 200 FEET SOUTH AND 660 FEET WEST FROM SW CORNER OF DLC 48

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	19	NE SW	78	8.42
4 S	3 W	WM	19	NW SW	78	27.50
4 S	3 W	WM	19	SW SW	78	29.00
4 S	3 W	WM	19	SE SW	78	12.10
4 S	3 W	WM	30	NE NW	78	2.51
4 S	3 W	WM	30	NW NW	78	13.37

3. Temporary Transfer Application T-10922 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	19	SE SW	48	8.10
4 S	3 W	WM	19	SE SW	56	3.20
4 S	3 W	WM	19	SW SE	48	5.30
4 S	3 W	WM	19	SW SE	56	1.40
4 S	3 W	WM	30	NW NE	56	13.20
4 S	3 W	WM	30	SW NE	56	6.10
4 S	3 W	WM	30	NE NW	56	24.30
4 S	3 W	WM	30	SW NW	55	1.50
4 S	3 W	WM	30	SE NW	56	9.20
4 S	3 W	WM	30	SE NW	55	20.60

4. Notice of the application for temporary transfer was published July 14, 2009, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

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(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 proposed in Temporary Transfer Application T-10922 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-10922 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 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.
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 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 Special Order Volume 62, Pages 349 – 351.
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. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.

Dated at Salem, Oregon this 15th day of September 2009.


Phillip C. Ward, Director *PCW*

Mailing Date: SEP 21 2009