

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

In the Matter of Transfer Application) **FINAL ORDER APPROVING A**
T-10568, Polk County) **TEMPORARY CHANGE IN POINT OF**
) **DIVERSION 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 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

CONFEDERATED TRIBES OF THE GRAND RONDE COMMUNITY
Attn - ERIC SCOTT
9615 GRAND RONDE RD.
GRAND RONDE, OR 97347

Findings of Fact

1. On April 4, 2008, Eric Scott, on behalf of the Confederated Tribes of the Grand Ronde Community, filed an application to temporarily change the point of diversion and place of use under Certificates 36796 and 50623 for a period of five years. The Department assigned the application number T-10568.

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

Certificate: 36796 in the name of GEORGE J. KOCHIS (perfected under Permit S-29131)

Use: IRRIGATION of 0.7 ACRE

Priority Date: OCTOBER 9, 1963

Rate: 0.01 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: 1/80 cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season of each year

Source: COSPER CREEK, tributary to the SOUTH YAMHILL RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
6 S	7 W	WM	8	NE NW	2	1080 FEET WEST AND 230 FEET SOUTH FROM THE N1/4 CORNER OF SECTION 8

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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	GLot	Acres
6 S	7 W	WM	8	NE NW	2	0.7

3. Transfer Application T-10568 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	7 W	WM	5	SE SW	28	0.7

4. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Transfer Application T-10568 proposes to move the authorized point of diversion approximately 200 feet upstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 S	7 W	WM	8	NE NW	24 FEET SOUTH AND 1220 FEET WEST FROM THE N1/4 CORNER OF SECTION 8

5. The entirety of the second right to be transferred is as follows:

Certificate: 50623 in the name of CLIFFORD H. ELLIS (perfected under Permit S-41267)

Use: IRRIGATION of 4.8 ACRES

Priority Date: DECEMBER 1, 1976

Rate: 0.06 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: 1/80 cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season of each year

Source: COSPER CREEK, tributary to SOUTH YAMHILL RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
6 S	7 W	WM	8	NE NW	2	230 FEET SOUTH AND 1060 FEET WEST FROM THE N1/4 CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	7 W	WM	8	NE NW	2	4.8

6. Transfer Application T-10568 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	7 W	WM	5	SE SW	4.8

7. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Transfer Application T-10568 proposes to move the authorized point of diversion approximately 200 feet upstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 S	7 W	WM	8	NE NW	24 FEET SOUTH AND 1220 FEET WEST FROM THE N1/4 CORNER OF SECTION 8

8. Notice of the application for temporary transfer was published on April 15, 2008, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
9. The right evidenced by Certificate 36796 was leased instream under IL-781 (Special Order Volume 69 Pages 618 – 620) during the period June 22, 2006 to September 30, 2007, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
11. The proposed change would not result in enlargement of the rights.
12. 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 points of diversion and place of use proposed in Transfer Application T-10568 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The changes in points of diversion and place of use proposed in Transfer Application T-10568 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 new 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 Certificates 36796 and 50623 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 Certificates 36796 and 50623.
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.

Dated at Salem, Oregon this 16th day of May, 2008.



Phillip C. Ward, Director *FW*

Mailing Date: MAY 23 2008