

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

| | | |
|---------------------------------------|---|--------------------------------|
| In the Matter of Transfer Application |) | FINAL ORDER APPROVING A |
| T-10590, Umatilla County |) | TEMPORARY CHANGE IN PLACE OF |
| |) | USE AND EARLY TERMINATION OF |
| |) | TEMPORARY TRANSFER T-9899 |
| |) | (SPECIAL ORDER V64 PAGES 230 – |
| |) | 233), |

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

LLOYD P. and LOIS J. PIERCY
33927 RIVERVIEW DR.
HERMISTON, OR 97838

Findings of Fact

1. On April 7, 2008, LLOYD P. And LOIS J. PIERCY filed an application to temporarily change the place of use under Certificate 80295 for a period of five years. The Department assigned the application number T-10590.
2. On May 7, 2008, the authorized and proposed places of use on the transfer application and map were amended to reflect a total of 408.8 acres to be affected.
3. The portion of the right to be transferred is as follows:

Certificate: 80295 in the name of LLOYD PIERCY (perfected under Permit G-7929)

Use: IRRIGATION of 408.8 ACRES

Priority Date: FEBRUARY 15, 1978

Rate: 5.10 CUBIC FEET PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year

Source: FOUR WELLS in the STAGE GULCH BASIN

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 Points of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Survey Coordinates |
|-----|------|-----|-----|-------|--|
| 4 N | 30 E | WM | 33 | SE SW | WELL 1 (UMAT 3007) - 1030 FEET NORTH AND 2420 FEET EAST FROM THE SW CORNER OF SECTION 33 |
| 4 N | 30 E | WM | 32 | SW SE | WELL 2 (UMAT 3004) - 980 FEET NORTH AND 1640 FEET WEST FROM THE SW CORNER OF SECTION 33 |
| 4 N | 30 E | WM | 29 | NE SE | WELL 3 (UMAT 3000) -- 2170 FEET NORTH AND 50 FEET WEST FROM THE SE CORNER OF SECTION 29 |
| 4 N | 30 E | WM | 28 | SE NE | WELL 4 (UMAT 2999) - 930 FEET NORTH AND 240 FEET WEST FROM THE E1/4 CORNER OF SECTION 28 |

Authorized Place of Use

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 3 N | 30 E | WM | 4 | NE NE | 6.3 |
| 3 N | 30 E | WM | 4 | NW NE | 1.3 |
| 3 N | 30 E | WM | 4 | SW NE | 1.7 |
| 3 N | 30 E | WM | 4 | SE NE | 1.6 |
| 3 N | 30 E | WM | 4 | NE NW | 2.3 |
| 3 N | 30 E | WM | 4 | NW NW | 0.4 |
| 3 N | 30 E | WM | 4 | SW NW | 0.2 |
| 3 N | 30 E | WM | 4 | SE NW | 0.5 |
| 3 N | 30 E | WM | 5 | NE NE | 3.2 |
| 3 N | 30 E | WM | 5 | NW NE | 1.4 |
| 3 N | 30 E | WM | 5 | SW NE | 1.3 |
| 3 N | 30 E | WM | 5 | SE NE | 1.2 |
| 4 N | 30 E | WM | 27 | NE NW | 1.4 |
| 4 N | 30 E | WM | 27 | NW NW | 1.5 |
| 4 N | 30 E | WM | 27 | SW NW | 1.1 |
| 4 N | 30 E | WM | 27 | SE NW | 1.1 |
| 4 N | 30 E | WM | 27 | NE SW | 1.3 |
| 4 N | 30 E | WM | 27 | NW SW | 2.0 |
| 4 N | 30 E | WM | 27 | SW SW | 10.7 |
| 4 N | 30 E | WM | 27 | SE SW | 1.5 |
| 4 N | 30 E | WM | 28 | NE NE | 0.7 |
| 4 N | 30 E | WM | 28 | NW NE | 0.2 |
| 4 N | 30 E | WM | 28 | SW NE | 16.4 |
| 4 N | 30 E | WM | 28 | SE NE | 1.9 |
| 4 N | 30 E | WM | 28 | NE NW | 2.8 |
| 4 N | 30 E | WM | 28 | NW NW | 1.6 |
| 4 N | 30 E | WM | 28 | SW NW | 3.3 |
| 4 N | 30 E | WM | 28 | SE NW | 20.3 |
| 4 N | 30 E | WM | 28 | NE SW | 0.7 |
| 4 N | 30 E | WM | 28 | NW SW | 3.9 |
| 4 N | 30 E | WM | 28 | SW SW | 2.0 |
| 4 N | 30 E | WM | 28 | SE SW | 1.0 |
| 4 N | 30 E | WM | 28 | NE SE | 0.2 |
| 4 N | 30 E | WM | 28 | NW SE | 2.2 |
| 4 N | 30 E | WM | 28 | SW SE | 3.0 |

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 4 N | 30 E | WM | 28 | SE SE | 9.4 |
| 4 N | 30 E | WM | 29 | NE NE | 1.7 |
| 4 N | 30 E | WM | 29 | NW NE | 2.3 |
| 4 N | 30 E | WM | 29 | SW NE | 1.4 |
| 4 N | 30 E | WM | 29 | SE NE | 1.5 |
| 4 N | 30 E | WM | 29 | NE SE | 11.5 |
| 4 N | 30 E | WM | 29 | NW SE | 1.4 |
| 4 N | 30 E | WM | 29 | SW SE | 0.9 |
| 4 N | 30 E | WM | 32 | NE NE | 1.5 |
| 4 N | 30 E | WM | 32 | NW NE | 1.6 |
| 4 N | 30 E | WM | 32 | SW NE | 0.4 |
| 4 N | 30 E | WM | 32 | SE NE | 1.0 |
| 4 N | 30 E | WM | 32 | NE SE | 6.4 |
| 4 N | 30 E | WM | 32 | NW SE | 19.0 |
| 4 N | 30 E | WM | 32 | SW SE | 10.5 |
| 4 N | 30 E | WM | 32 | SE SE | 10.8 |
| 4 N | 30 E | WM | 33 | NE NE | 31.4 |
| 4 N | 30 E | WM | 33 | NW NE | 7.7 |
| 4 N | 30 E | WM | 33 | SE NE | 16.7 |
| 4 N | 30 E | WM | 33 | NE NW | 19.7 |
| 4 N | 30 E | WM | 33 | NW NW | 0.2 |
| 4 N | 30 E | WM | 33 | SW NW | 1.3 |
| 4 N | 30 E | WM | 33 | SE NW | 7.1 |
| 4 N | 30 E | WM | 33 | NE SW | 5.4 |
| 4 N | 30 E | WM | 33 | SE SW | 15.2 |
| 4 N | 30 E | WM | 33 | NE SE | 16.1 |
| 4 N | 30 E | WM | 33 | NW SE | 14.4 |
| 4 N | 30 E | WM | 33 | SW SE | 8.3 |
| 4 N | 30 E | WM | 33 | SE SE | 21.2 |
| 4 N | 30 E | WM | 34 | NE NW | 7.7 |
| 4 N | 30 E | WM | 34 | NW NW | 30.6 |
| 4 N | 30 E | WM | 34 | SW NW | 7.7 |
| 4 N | 30 E | WM | 34 | SE NW | 1.0 |
| 4 N | 30 E | WM | 34 | NE SW | 1.0 |
| 4 N | 30 E | WM | 34 | NW SW | 11.1 |
| 4 N | 30 E | WM | 34 | SW SW | 1.5 |

4. Transfer Application T-10590 proposes to change the place of use of the right to:

| Twp | Rng | Mer | Sec | Q-Q | Acres |
|-----|------|-----|-----|-------|-------|
| 4 N | 30 E | WM | 29 | SW SW | 9.5 |
| 4 N | 30 E | WM | 29 | SE SW | 9.2 |
| 4 N | 30 E | WM | 30 | SW SE | 0.2 |
| 4 N | 30 E | WM | 30 | SE SE | 0.2 |
| 4 N | 30 E | WM | 31 | NE NE | 31.1 |
| 4 N | 30 E | WM | 31 | NW NE | 31.5 |
| 4 N | 30 E | WM | 31 | SW NE | 23.3 |
| 4 N | 30 E | WM | 31 | SE NE | 23.5 |
| 4 N | 30 E | WM | 31 | NE SE | 22.8 |
| 4 N | 30 E | WM | 31 | NW SE | 16.5 |
| 4 N | 30 E | WM | 31 | SW SE | 23.2 |

| Twp | Rng | Mer | Sec | Q-Q | Acres |
|-----|------|-----|-----|-------|-------|
| 4 N | 30 E | WM | 31 | SE SE | 32.1 |
| 4 N | 30 E | WM | 32 | NE NW | 36.1 |
| 4 N | 30 E | WM | 32 | NW NW | 36.1 |
| 4 N | 30 E | WM | 32 | SW NW | 18.6 |
| 4 N | 30 E | WM | 32 | SE NW | 22.6 |
| 4 N | 30 E | WM | 32 | NE SW | 36.5 |
| 4 N | 30 E | WM | 32 | NW SW | 28.1 |
| 4 N | 30 E | WM | 32 | SW SW | 2.8 |
| 4 N | 30 E | WM | 32 | SE SW | 4.9 |

5. 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.
6. The right was exercised under Temporary Transfer Application T-9899 during the irrigation seasons of 2005, 2006 and 2007 and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
7. The applicant has requested that Temporary Transfer Application T-9899 be terminated early.
8. Water use Permit S-54385 is appurtenant to some of the land to which Temporary Transfer T-10590 is proposed to be used. The applicant has indicated that the supplemental irrigation under water use Permit S-54385 shall remain unexercised during the term of this temporary transfer.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
10. The proposed change would not result in enlargement of the right.
11. 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 place of use proposed in Transfer Application T-10590 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. Pursuant to OAR 690-380-8004(7), Temporary Transfer T-9899, recorded at Special Order Volume 64 Pages 230 – 233, is withdrawn and of no further force or effect.
2. The change in place of use proposed in Transfer Application T-10590 is approved.

3. The authorized place of use for supplemental irrigation under water use Permit S-54385 **shall not** be exercised during the term of this temporary transfer.
4. 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.
5. The use shall revert to the authorized place of use at the end of the 2012 irrigation season.
6. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
7. A subsequent application for permanent transfer of Certificate 80295 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.
8. 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 80295.
9. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
10. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
11. The use of the remaining water right described by Certificate 80295 shall continue to be in accordance with the terms and conditions of Certificate 80295.

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



Phillip C. Ward, Director

Mailing Date: MAY 23 2008