

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-11583, Douglas County)	TEMPORARY CHANGES 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

HOWARD L., MICHAEL L. AND GARY L. BROWNSON
7081 SOUTH MYRTLE ROAD
MYRTLE CREEK, OR 97457

Findings of Fact

1. On April 23, 2013, Howard L., Michael L. and Gary L. Brownson filed an application to temporarily change the place of use and change the point of diversion to serve the proposed place of use under a portion of Certificate 39246 for a period of 5 years. The Department assigned the application number T-11583.
2. Notice of the application for transfer was published on April 30, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the right to be temporarily transferred is as follows:

Certificate: 39246 in the name of MRS. F. A. MOAN (perfected under Permit S-6647)
Use: IRRIGATION of 4.8 ACRES
Priority Date: DECEMBER 29, 1924
Rate: 0.06 CUBIC FOOT PER SECOND
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.

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.

Source: LOUIS CREEK, tributary to SOUTH MYRTLE CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
29 S	4 W	WM	23	NW NW	830 FEET SOUTH AND 1250 FEET EAST FROM THE NORTHWEST CORNER OF SECTION 23

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	4 W	WM	23	NE NW	4.8

4. Temporary Transfer Application T-11583 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
29 S	4 W	WM	21	NW NE	39	0.2
29 S	4 W	WM	21	SW NE	39	4.6

5. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-11583 proposes to move the authorized point of diversion approximately 0.5 mile downstream past the confluence of Louis Creek with South Myrtle Creek, to a point on South Myrtle Creek:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
29 S	4 W	WM	21	SW NE	39	940 FEET NORTH AND 460 FEET EAST FROM CENTER 1/4 CORNER OF SECTION 21

Temporary Transfer Review Criteria

6. Water has been used within the last five years according to the terms and conditions of the right as modified by temporary transfer T-10684. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
8. The proposed changes would not result in enlargement of the right.
9. A portion of Certificate 57906 and a 0.2 acre portion of Permit S-45605 are appurtenant to the land to which the transferred right is proposed to be moved under Temporary Transfer T-11583. The transferred right will be exercised as supplemental to these rights during the term of the transfer.
10. The proposed changes 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(5) if the Department later finds that the transfer is causing injury to any existing water right.

Conclusions of Law

The temporary changes in place of use and point of diversion to convey water to the temporary place of use proposed in application Temporary Transfer Application T-11583, as conditioned below are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-11583 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2013, 2014, 2015, 2016 and 2017 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2017 irrigation season. The authorization to use the temporary point of diversion shall be terminated concurrently.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificate 39246 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 39246, with the exception that during the term of this transfer it will be supplemental to the use of Certificate 57906 and Permit S-45605 on the "to" lands.
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 use of the remaining water right described by Certificate 39246 shall continue to be in accordance with the terms and conditions of Certificate 39246.

Dated at Salem, Oregon this 17 day of June, 2013.


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

Mailing Date: JUL 02 2013