

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

In the Matter of Transfer Application)
T-11058, Benton County)
)
) FINAL ORDER APPROVING A
) TEMPORARY CHANGE IN PLACE OF
) USE

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

JOHN EVELAND
25159 GRANGE HALL
PHILOMATH OR 97370

Findings of Fact

- 1. On April 7, 2010, JOHN EVELAND filed an application to temporarily change the place of use under Certificate 24183 for a period of 5 years. The Department assigned the application number T-11058.
- 2. The portion of the right to be temporarily transferred is as follows:
 - Certificate:** 24183 in the name of DORVAL AND ANNA BEVENS (perfected under Permit S-16134)
 - Use:** IRRIGATION OF 3.8 ACRES
 - Priority Date:** JANUARY 4, 1945
 - Rate:** 0.025 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
 - Source:** MARYS RIVER, tributary to the WILLAMETTE RIVER

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.

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
12 S	6 W	WM	11	SE SE

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
12 S	6 W	WM	11	SE SE	46	3.8

3. Temporary Transfer Application T-11058 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
12 S	6 W	WM	13	NW NW	51	3.64
12 S	6 W	WM	13	SW NW	51	0.16

4. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-11058 proposes to move the authorized point of diversion approximately 2425 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
12 S	6 W	WM	13	NW NW	51	273 FEET SOUTH AND 1945 FEET WEST FROM THE SE CORNER OF DLC 46

5. 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.
6. An affidavit of consent was submitted by the landowners, Derrick and Karen Luksch, giving permission to temporarily move the water right off their property.

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 pump, pipeline, and sprinkler system 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.

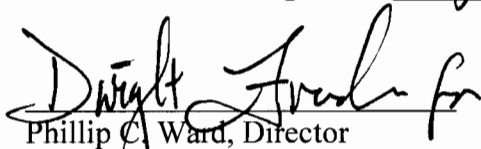
Conclusions of Law

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-11058 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-11058 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2010, 2011, 2012, 2013, and 2014 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2014 irrigation season. The authorization to use the temporary point of diversion shall be terminated concurrently.
4. The portion of the water right evidenced by Certificate 84597 appurtenant to the proposed place of use **shall not** be used during the 2010, 2011, 2012, 2013, and 2014 irrigation seasons.
5. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
6. A subsequent application for permanent transfer of Certificate 24183 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.
7. 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 24183.
8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
9. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
10. The use of the remaining water right described by Certificate 24183 shall continue to be in accordance with the terms and conditions of Certificate 24183.

Dated at Salem, Oregon this 18 day of May, 2010.


Phillip C. Ward, Director

Mailing Date: MAY 20 2010