

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

In the Matter of Transfer Application)
T-13003, Wasco County)
)

FINAL ORDER APPROVING A
TEMPORARY CHANGE IN PLACE OF
USE

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

LONNIE WRIGHT
5450 MILL CREEK RD
THE DALLES, OR 97058

Findings of Fact

- 1. On August 13, 2018, LONNIE WRIGHT filed an application to temporarily change the place of use under Certificates 88292 and 88293 for a period of 4 years. The Department assigned the application number T-13003.
- 2. Notice of the application for transfer was published on August 21, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. The portion of the first right to be transferred is as follows:

Certificate: 88292 in the name of LONNIE WRIGHT (perfected under Permit U-480)
Use: IRRIGATION of 15.2 ACRES
Priority Date: SEPTEMBER 29, 1952
Rate: 0.12 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, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, and shall be further limited to a diversion of not to exceed 0.12 CFS.
Source: TWO WELLS within the MILL CREEK BASIN

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 Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1 N	13 E	WM	18	NW SW	44	OLD WELL (WASC 2598): 940 FEET SOUTH AND 1205 FEET WEST FROM THE NE CORNER OF DLC 44
1 N	13 E	WM	18	NW SW	44	NEW WELL: 815 FEET SOUTH AND 685 FEET WEST FROM THE NE CORNER OF DLC 44

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
1 N	13 E	WM	18	NE SW		44	2.1
1 N	13 E	WM	18	NW SW		44	12.2
1 N	13 E	WM	18	SW SW	5		0.9
Total							15.2

4. Temporary Transfer Application T-13003 proposes to temporarily change the place of use of the right to a combination of irrigated and non-irrigated strips within a larger land parcel. The acreage below represents the proposed irrigated area:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	12 E	WM	24	NW NE	0.2
1 N	12 E	WM	24	SW NE	3.8
1 N	12 E	WM	24	SW NE	2.1
1 N	12 E	WM	24	SE NE	0.5
1 N	12 E	WM	24	NE NW	1.2
1 N	12 E	WM	24	NE NW	1.5
1 N	12 E	WM	24	NW NW	0.4
1 N	12 E	WM	24	NE SE	0.6
1 N	12 E	WM	24	NW SE	3.7
1 N	12 E	WM	24	NW SE	1.2
Total					15.2

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

Certificate: 88293 in the name of LONNIE WRIGHT (perfected under Permit U-558)

Use: SUPPLEMENTAL IRRIGATION of 15.2 ACRES

Priority Date: JUNE 4, 1953

Rate: 0.07 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, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: TWO WELLS within the MILL CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1 N	13 E	WM	18	NW SW	44	OLD WELL (WASC 2598): 940 FEET SOUTH AND 1205 FEET WEST FROM THE NE CORNER OF DLC 44
1 N	13 E	WM	18	NW SW	44	NEW WELL: 815 FEET SOUTH AND 685 FEET WEST FROM THE NE CORNER OF DLC 44

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
1 N	13 E	WM	18	NE SW		44	2.1
1 N	13 E	WM	18	NW SW		44	12.2
1 N	13 E	WM	18	SW SW	5		0.9
Total							15.2

6. Temporary Transfer Application T-13003 proposes to temporarily change the place of use of the right to a combination of irrigated and non-irrigated strips within a larger land parcel. The acreage below represents the proposed irrigated area:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	12 E	WM	24	NW NE	0.2
1 N	12 E	WM	24	SW NE	3.8
1 N	12 E	WM	24	SW NE	2.1
1 N	12 E	WM	24	SE NE	0.5
1 N	12 E	WM	24	NE NW	1.2
1 N	12 E	WM	24	NE NW	1.5
1 N	12 E	WM	24	NW NW	0.4
1 N	12 E	WM	24	NE SE	0.6
1 N	12 E	WM	24	NW SE	3.7
1 N	12 E	WM	24	NW SE	1.2
Total					15.2

Temporary Transfer Review Criteria

7. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are 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 rights are present.
9. Due to the complexity of the layout of the fields to be irrigated, the proposed change in place of use could result in enlargement of the rights if the application of water extends beyond the proposed place of use. Absent soil moisture monitoring, it would be impossible to determine whether enlargement was occurring.
10. Adherence to the water flow measurement and soil moisture monitoring conditions listed below would provide the tools necessary to determine that enlargement is not occurring.

11. The proposed change, as conditioned, 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(5) 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-13003 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-13003 is approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2019, 2020, 2021, and 2022 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2022 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 of Certificates 88292 and 88293 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 88292 and 88293.
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 install and maintain a water flow and soil moisture monitoring system.
 - a) Before water use may begin under this order, the water user shall install a series of totalizing flow meters for the points of appropriation and the lands to be irrigated under this application, or, with prior approval of the Director, another suitable measuring device at each point of appropriation.
 - b) The water user shall maintain the meters or measuring devices in good working order.
 - c) The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
 - d) The water user shall install and maintain valves and in-line flow meters or other suitable devices for controlling, measuring and recording the quantity of water diverted. In-line

flow meters shall be installed at each well and each field control manifold serving the drip irrigated areas. The type and plans of the valves and measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

- e) The water user shall operate and maintain the valves and measuring devices, as needed. The Watermaster may monitor the system and accuracy of the measuring devices, as needed.
- f) Flow meter readings shall be collected at a minimum of weekly intervals until one week past the end of the irrigation season. Flow meter data collected from the monitoring system shall be reported to the Watermaster within 3 days of the data collection date, as approved by the Watermaster.
- g) The monitoring system shall include Gro-Point Sensors or a similar monitoring system capable of accuracy that is equivalent to or superior to the level of accuracy provided by the Gro-Point system. The type of system and installation plans must be approved by the Watermaster prior to installation.
- h) The soil moisture monitoring system may include up to ten paired sites and three control sites located adjacent to the planted area, such that the control sites share similar soil type, aspect and light conditions as the monitoring sites in the planted area. Each paired site shall consist of a pair of access tubes located within the dry non-irrigated strip between irrigated strips. Each access tube should be placed so that the outer edge of the probe's zone of influence will be within 2 inches of the edge of the irrigated strip. Additional soil moisture monitoring stations shall be installed as required by the Watermaster where conditions dictate more monitoring stations are required to effectively determine irrigation is occurring only where there is an appurtenant water right. The monitoring program, including both the number and location of the monitoring sites, shall be approved by the Watermaster prior to installation.
- i) Soil moisture content shall be monitored continuously or collected at a minimum of weekly intervals until one week past the end of the irrigation season. Soil moisture data collected from the monitoring system shall be reported to the Watermaster in summary format including equipment used and monitoring data listed by station and measurement field, as approved by the Watermaster.
- j) Soil moisture reports shall be made during the first week prior to the irrigation season and once per week during the first three weeks of the irrigation season. Unless otherwise required by the Watermaster, soil moisture data collected shall be reported to the Watermaster within 3 days of the data collection date. Reporting requirements may be modified, as dictated by the Watermaster or upon written request from the water user subject to approval of the Watermaster. However, review of the monitoring program can occur at any time with a formal request from the water user or the Watermaster. Modification to the monitoring program may occur at any time as deemed necessary and/or appropriate by the Watermaster.

- k) Upon reasonable notice the water user shall provide the Watermaster access to metering equipment and moisture monitoring stations as well as access to monitoring data and flow data, including access to real time data on an internal web site or computer.
 - l) The water user shall promptly inform the Watermaster of any situation that result in the application of water to any land without a water right, including but not limited to the areas between crop rows. The water user shall also inform the Watermaster of the course of action taken by the water user to correct the problem and prevent the future occurrence of similar events.
 - m) If water is applied to lands without water rights, including but not limited to, the area between the crop rows, the Watermaster may regulate the water use until the soil moisture and flow data demonstrate that the areas without water rights are no longer receiving water.
 - n) If, at any time the Watermaster determines that the water user has not taken all necessary precautions to ensure that areas without appurtenant water rights, including areas between crop rows, are not receiving water this temporary transfer may be terminated. If this transfer is terminated, the water rights subject to this transfer will revert to their original place of use.
9. The use of the remaining water rights described by Certificates 88292 and 88293 shall continue to be in accordance with the terms and conditions of Certificates 88292 and 88293.

Dated at Salem, Oregon this NOV 20 2018



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing Date: NOV 21 2018