

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-12017, Umatilla County) A TEMPORARY CHANGE IN
) PLACE OF USE

Authority

Oregon Revised Statute (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.

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

Applicant

DAVID CORREA
31777 ANDREWS RD
ECHO, OR 97876

Agent

WILLIAM I. PORFILY
PO BOX 643
STANFIELD, OR 97875

Findings of Fact

1. On March 26, 2015, DAVID CORREA, filed an application to temporarily change the place of use under an adjudicated, un-certificated right (Umatilla River Decree Volume 3 Page 127, Volume 3 Page 239, and Volume 15 Page 378) for a period of one year. The Department assigned the application number T-12017.
2. Notice of the application for transfer was published on April 7, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the first right to be temporarily transferred is as follows:

Decree: Umatilla River Decree Volume 3 Page 127
Use: IRRIGATION of 12.0 ACRES
Priority Dates: 1870, JANUARY 9, 1900
Limit/Duty: (subject to the provisions of the Umatilla River Decree Vol. 3 Page 127, Paragraph 33)
Period of Use: USUALLY MARCH 1 TO NOVEMBER 1
Source: UMATILLA RIVER, tributary to the COLUMBIA 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	Measured Distances
3 N	29 E	WM	21	SW NE	NORTH 76 DEGREES 45 MINUTES 56 SECONDS EAST, 2913.19 FEET FROM THE W¼ CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres
3 N	29 E	WM	7	NE SE	2300	6.5
3 N	29 E	WM	7	NE SE	2300	5.5
Total						12.0

4. Temporary Transfer Application T-12017 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres
3 N	28 E	WM	12	NE SE	4000	8.2
3 N	28 E	WM	12	NE SE	4000	3.8
Total						12.0

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

Decree: Umatilla River Decree (Volume 3 Page 239) the portion identified as in the name of Pioneer Irrigation Co. (B.F. McCullough, J.A. Mendenhall)
Use: IRRIGATION of 45.3 ACRES
Priority Date: JANUARY 9, 1900
Limit/Duty: (subject to the provisions of the Umatilla River Decree Vol. 3, Page 127, Paragraph 33)
Period of Use: USUALLY MARCH 1 TO NOVEMBER 1
Source: UMATILLA RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	29 E	WM	21	SW NE	NORTH 76 DEGREES 45 MINUTES 56 SECONDS EAST, 2913.19 FEET FROM THE W¼ CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax-lot	Acres
3 N	29 E	WM	6	NE NE	200	2.7
3 N	29 E	WM	6	NW NE	100	15.1
3 N	29 E	WM	6	SE NE	800	4.4
3 N	29 E	WM	8	NE SW	2601	6.2
3 N	29 E	WM	8	SE SW	2601	8.0
3 N	29 E	WM	8	NW SE	2601	7.4
3 N	29 E	WM	8	SW SE	2601	1.5
Total						45.3

6. Temporary Transfer Application T-12017 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax-lot	Acres
3 N	28 E	WM	12	NE SE	4000	22.2
3 N	28 E	WM	12	SE SE	4000	22.8
3 N	29 E	WM	8	NW SE	2601	0.10
3 N	29 E	WM	8	SW SE	2601	0.20
Total						45.3

7. The portion of the third right to be temporarily transferred is as follows:

Decree: Umatilla River Decree (Volume 15 Page 378) the portion identified in the name of Pioneer Irrigation Co. (Frank Correa, Sr.)
Use: IRRIGATION of 4.4 ACRES
Priority Date: JANUARY 9, 1900
Limit/Duty: (subject to the provisions of the Umatilla River Decree Vol 3 Page 127, Paragraph 33)
Period of Use: USUALLY MARCH 1 TO NOVEMBER 1
Source: UMATILLA RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	29 E	WM	21	SW NE	NORTH 76 DEGREES 45 MINUTES 56 SECONDS EAST, 2913.19 FEET FROM THE W1/4 CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	29 E	WM	8	NW SE	1.3
3 N	29 E	WM	8	SW SE	3.4

8. Temporary Transfer Application T-12017 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	8	SE SE	4.4

9. The applicant has indicated that the supplemental water right (Permit S-7400) will not be exercised during the term of this temporary transfer.
10. The Department interprets the rate and duty under the terms of the decree to be one-eightieth of one cubic foot per second, not to exceed 3.0 acre-feet per acre for each acre irrigated for these lands.
11. The uses of domestic and livestock as outlined in the Umatilla River Decree, Volume 3, Page 127 and Volume 15, Page 378, are not being affected by this transfer.
12. Temporary Transfer Application T-12017 proposes to temporarily transfer water rights within the boundaries of Westland Irrigation District. The district was notified of the proposed temporary transfer and did not object to the transfer.

13. Temporary Transfer Application T-12017 proposes to temporarily transfer a water rights served by a Bureau of Reclamation storage project. The Bureau was notified of the proposed temporary transfer and did not provide any comments.

Temporary Transfer Review Criteria

14. 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.
15. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
16. The proposed change as conditioned would not result in enlargement of the rights.
17. 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 place of use proposed in application Temporary Transfer Application T-12017 are 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-12017 is approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2015, irrigation season.
3. The water right as evidenced by Permit S-7400 and Certificate 40931 appurtenant to the proposed place of use shall not be exercised during the 2015, 2016, 2017, 2018, and 2019 irrigation seasons.
4. The use shall revert to the authorized place of use at the end of the 2019 irrigation season.
5. A subsequent application for permanent transfer of this water right evidenced by the associated decree (Umatilla River Decree Volume 3 Page 127, and Volume 15 Page 378) 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 approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.

7. A subsequent application for permanent transfer of Umatilla River Decree Volume 3 Page 127, Volume 3 Page 239, and Volume 15 Page 378 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 the Umatilla River Decree, Vol. 3, Page 127, Vol.3 Page 239 and Volume 15, Page 378.
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 all the existing measurement devices and shall make such improvements as may be required by the Department.
11. The use of the remaining water rights described by the Umatilla River Decree, Volume 3 Page 127, Volume 3 Page 239 and Volume 15, Page 378 shall continue to be in accordance with the terms and conditions of the Umatilla River Decree.

Dated at Salem, Oregon this 27 day of May 2015.



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

Mailing Date: MAY 29 2015