

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-12604, Baker County)	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

TIMBER CANYON RANCH LLC
101 SE 3RD ST
PENDLETON, OR 97807

Findings of Fact

1. On March 6, 2017, Timber Canyon Ranch LLC filed an application to temporarily change the place of use under Certificate 75362 for a period of 5 years. The Department assigned the application number T-12604.
2. Notice of the application for transfer was published on March 14, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 5, 2017 the Department notified the applicant of incomplete application and clarification of application. The applicant submitted the missing document on April 25, 2017.
4. The right to be temporarily transferred is as follows:

Certificate: 75362 in the name of DRY GULCH DITCH CO. (perfected under Permit E-16)
Use: IRRIGATION of 14.0 ACRES
Priority Date: JULY 22, 1909
Rate: 0.18 CUBIC FOOT PER SECOND

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.

Limit/Duty: The amount of water used for irrigation shall be limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent, for each acre irrigated during the irrigation season of each year.

Source: EAGLE CREEK tributary of POWDER RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	45 E	WM	20	NE NW	# 21 DRY GULCH DITCH: 75 FEET SOUTH AND 1550 FEET EAST FROM THE NW CORNER OF SECTION 20

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	28	SW NW	7.8
9 S	45 E	WM	29	SE NE	6.2
Total					14.0

- Temporary Transfer Application T-12604 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	20	SW SE	6.0
9 S	45 E	WM	29	NW NE	8.0
Total					14.0

- The supplemental water right associated with the place of use identified within Finding of Fact #4 will not be exercised during the term of this temporary transfer.

Temporary Transfer Review Criteria

- 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.
- A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
- The proposed change would not result in enlargement of the right.
- 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-12604 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

11. The temporary change in place of use proposed in Temporary Transfer Application T-12604 is approved.
12. The former place of use **shall not** be irrigated as part of this water right during the 2017, 2018, 2019, 2020 and 2021 irrigation seasons.
13. The supplemental water right referred to in Finding of Fact #6 will not be exercised during the term of this temporary transfer.
14. The use shall revert to the authorized place of use at the end of the 2021 irrigation season.
15. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
16. A subsequent application for permanent transfer of Certificate 75362 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.
17. 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 75362.
18. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
19. The use of the remaining water right described by Certificate 75362 shall continue to be in accordance with the terms and conditions of Certificate 75362.

Dated at Salem, Oregon this 25 day of MAY, 2017.



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

Mailing Date: MAY 31 2017