

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-12628, Douglas County)	DISTRICT TEMPORARY CHANGE IN
)	PLACE OF USE AND POINT OF
)	DIVERSION

Authority

Oregon Revised Statute (ORS) 540.570 establishes the process in which a district may submit a request to temporarily transfer a water right within district boundaries. Oregon Administrative Rule (OAR) Chapter 690, Division 385 implements the statutes and provides the Department's procedures and criteria for evaluating district transfer applications.

Applicant

SUTHERLIN WATER CONTROL DISTRICT
495 N. STATE ST
SUTHERLIN, OR 97479

Findings of Fact

1. On April 3, 2017, Sutherlin Water Control District filed an application to temporarily change the place of use and point of diversion to serve the proposed place of use under Certificates 76599 and 76600. The Department assigned the application number T-12628.
2. Notice of the application for transfer was published on April 18, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 1, 2017, the Department contacted the applicant with regard to a deficiency in the application regarding the number of acres to be irrigated.
4. On May 4, 2017, the Department received amended application pages and a map resolving the deficiency.
5. The portion of the first right to be temporarily transferred is as follows:

Certificate: 76599 in the name of SUTHERLIN WATER CONTROL DISTRICT
(perfected under Permit S-31273)

Use: PRIMARY IRRIGATION of 29.6 ACRES

Priority Date: JANUARY 27, 1960

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 ONE-

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.

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 from direct flow and storage. The use of water for supplemental irrigation is limited to stored water only.

Source: SUTHERLIN CREEK and PLAT RESERVOIR I (constructed under R-4751) tributary of the NORTH UMPQUA RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
25 S	5 W	WM	14	NW SE	41	800 FEET SOUTH AND 580 FEET EAST FROM THE CENTER ¼ CORNER OF SECTION 14
25 S	5 W	WM	14	NW SE	41	PLAT I RESERVOIR

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
25 S	5 W	WM	13	NE NW		12.40
25 S	5 W	WM	13	SE NW	42	3.20
25 S	5 W	WM	13	NE SW	42	0.60
25 S	5 W	WM	13	NW SW	42	4.10
25 S	5 W	WM	13	SW SW	42	3.40
25 S	5 W	WM	14	SE SE	41	5.90
Total:						29.60

6. Temporary Transfer Application T-12628 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Tax lot	GLot	DLC	Acres	Water User
25 S	5 W	WM	13	SW NW	1800		42	1.20	Ralls
25 S	5 W	WM	14	NE NW	1800			2.00	Marshall
25 S	5 W	WM	14	NW NE	1300			0.50	Rhyne
25 S	5 W	WM	14	SW NE	2100	2		4.50	Neilson
25 S	5 W	WM	14	SW NE	1300	2		2.40	Rhyne
25 S	5 W	WM	14	SW NE	2400	2		0.10	Fennell
25 S	5 W	WM	14	SW NE	2400		41	0.80	Fennell
25 S	5 W	WM	14	SE NE	1800	1		0.20	Ralls
25 S	5 W	WM	14	SE NW	500		41	0.10	Dawson
25 S	5 W	WM	14	SE NW	500		45	0.40	Dawson
25 S	5 W	WM	15	NE NE	2801		45	6.90	Coffel
25 S	5 W	WM	15	NW NE	2801		45	1.40	Coffel
25 S	5 W	WM	15	SW NE	2801		45	0.30	Coffel
25 S	5 W	WM	15	SE NE	2801		45	0.40	Coffel
25 S	5 W	WM	23	NE NE	500		41	1.50	Allen
25 S	5 W	WM	23	NW NE	500		41	3.80	Allen
25 S	5 W	WM	23	SW NE	500		41	2.10	Allen
25 S	5 W	WM	23	SE NE	500		41	1.00	Allen
Total:								29.60	

7. An additional point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12628 proposes to move the authorized points of diversion approximately 0.60 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
25 S	5 W	WM	23	NE NE	41	1247 FEET SOUTH AND 918 FEET WEST FROM THE NE¼ CORNER OF SECTION 23

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

Certificate: 76600 in the name of SUTHERLIN WATER CONTROL DISTRICT (constructed under Permit R-4751 perfected under Reservoir Application R-74271)

Use: SUPPLEMENTAL IRRIGATION of 29.6 ACRES

Priority Date: JANUARY 1, 1993

Limit/Duty: The amount of water entitled to be stored and used each year under this right is not more than 450.0 acre feet.

Source: SUTHERLIN CREEK, tributary to the NORTH UMPQUA RIVER in an enlargement of PLAT I RESERVOIR

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	5 W	WM	14	NW SE	800 FEET SOUTH AND 580 FEET EAST FROM THE C1/4 CORNER OF SECTION 14

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
25 S	5 W	WM	13	NE NW		12.40
25 S	5 W	WM	13	SE NW	42	3.20
25 S	5 W	WM	13	NE SW	42	0.60
25 S	5 W	WM	13	NW SW	42	4.10
25 S	5 W	WM	13	SW SW	42	3.40
25 S	5 W	WM	14	SE SE	41	5.90
Total:						29.60

9. Temporary Transfer Application T-12628 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Tax lot	GLot	DLC	Acres	Water User
25 S	5 W	WM	13	SW NW	1800		42	1.20	Ralls
25 S	5 W	WM	14	NE NW	1800			2.00	Marshall
25 S	5 W	WM	14	NW NE	1300			0.50	Rhyne
25 S	5 W	WM	14	SW NE	2100	2		4.50	Neilson
25 S	5 W	WM	14	SW NE	1300	2		2.40	Rhyne
25 S	5 W	WM	14	SW NE	2400	2		0.10	Fennell
25 S	5 W	WM	14	SW NE	2400		41	0.80	Fennell
25 S	5 W	WM	14	SE NE	1800	1		0.20	Ralls
25 S	5 W	WM	14	SE NW	500		41	0.10	Dawson
25 S	5 W	WM	14	SE NW	500		45	0.40	Dawson
25 S	5 W	WM	15	NE NE	2801		45	6.90	Coffel
25 S	5 W	WM	15	NW NE	2801		45	1.40	Coffel

Twp	Rng	Mer	Sec	Q-Q	Tax lot	GLot	DLC	Acres	Water User
25 S	5 W	WM	15	SW NE	2801		45	0.30	Coffel
25 S	5 W	WM	15	SE NE	2801		45	0.40	Coffel
25 S	5 W	WM	23	NE NE	500		41	1.50	Allen
25 S	5 W	WM	23	NW NE	500		41	3.80	Allen
25 S	5 W	WM	23	SW NE	500		41	2.10	Allen
25 S	5 W	WM	23	SE NE	500		41	1.00	Allen
Total:								29.60	

10. An additional point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12628 proposes to move the authorized points of diversion approximately 0.60 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
25 S	5 W	WM	23	NE NE	41	1247 FEET SOUTH AND 918 FEET WEST FROM THE NE¼ CORNER OF SECTION 23

Temporary Transfer Review Criteria

11. 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.
12. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
13. The proposed changes as conditioned would not result in enlargement of the rights.
14. The proposed changes as conditioned 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 additional point of diversion to convey water to the temporary place of use proposed in application Temporary Transfer Application T-12628 are consistent with the requirements of ORS 540.570 and OAR 690-385-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and additional point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12628 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2017 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2017 irrigation season. The authorization to use the additional 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 causes injury to any existing water right.
5. A subsequent application for permanent transfer of Certificates 76599 and 76600 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 76599 and 76600.
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. Water use measurement conditions:
 - a. **Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.
 - 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 meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
9. The use of the remaining water rights described by Certificates 76599 and 76600 shall continue to be in accordance with the terms and conditions of Certificates 76599 and 76600.

Dated at Salem, Oregon this 31 day of May, 2017.



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

Mailing Date: JUN 01 2017