

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-11829, Klamath County)	EMERGENCY USE DROUGHT
)	TEMPORARY ADDITIONAL POINT
)	OF DIVERSION

Authority

ORS 536.750 establishes the process in which a water right holder may submit a request to temporarily transfer the use, place of use or point of diversion of water in the event of a declaration of drought, without complying with the notice and waiting requirements under ORS 540.520. OAR Chapter 690, Division 019 implements the statutes and provides the Department's procedures and criteria for evaluating drought transfer applications.

Applicant

TERRY BENGARD
20250 LAKE CALIFORNIA BLVD
COTTONWOOD, CA 96022

Findings of Fact

1. On June 5, 2014, TERRY BENGARD filed an application to temporarily add a point of diversion to serve the place of use under Certificate 89326 for the remainder of the 2014 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-11829.
2. Notice of the application for transfer was published on June 10, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 17, 2014, the Department contacted Ronald Yockim, via e-mail to notify the applicant's agent of the deficiencies in the application. The Department requested a current recorded deed and a signature from the applicant.
4. On June 26, 2014, Ron Yockim, the applicant's agent, submitted documents resolving the deficiencies.
5. The right to be temporarily transferred is as follows:

Certificate: 89326 in the name of TERRY BENGARD (perfected under Permit G-12442)

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.

Use: SUPPLEMENTAL IRRIGATION of 1478.2 ACRES
Priority Date: AUGUST 23, 1991
Rate: 7.55 CUBIC FEET PER SECOND
Limit/Duty: The amount of water used for irrigation under this right, 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) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.
Period of Use: April 15 through October 15
Source: A WELL (KLAM 10292) in the LOST RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	11.5 E	WM	26	NW SE	(KLAM 10292) SOUTH 41 DEGREES 43 MINUTES 16 SECONDS EAST 5628 FEET FROM THE S1/16 CORNER BETWEEN SECTIONS 22 AND 23

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
39 S	11.5 E	WM	22	SE SE		28.5
39 S	11.5 E	WM	23	SW SW		32.1
39 S	11.5 E	WM	23	SE SW		9.7
39 S	11.5 E	WM	23	SW SE		0.3
39 S	11.5 E	WM	25	SW NW		2.5
39 S	11.5 E	WM	25	SE NW		17.9
39 S	11.5 E	WM	25	NE SW		37.5
39 S	11.5 E	WM	25	NW SW		34.3
39 S	11.5 E	WM	25	SW SW		23.5
39 S	11.5 E	WM	25	SE SW		18.5
39 S	11.5 E	WM	25	NE SE		9.7
39 S	11.5 E	WM	25	NW SE		37.2
39 S	11.5 E	WM	25	SW SE		11.5
39 S	11.5 E	WM	26	NW NE		16.5
39 S	11.5 E	WM	26	SW NE		34.0
39 S	11.5 E	WM	26	SE NE		19.3
39 S	11.5 E	WM	26	NE NW		26.9
39 S	11.5 E	WM	26	NW NW		37.1
39 S	11.5 E	WM	26	SW NW		39.8
39 S	11.5 E	WM	26	SE NW		37.0
39 S	11.5 E	WM	26	NE SW		39.7
39 S	11.5 E	WM	26	NW SW		39.0
39 S	11.5 E	WM	26	SW SW		34.7
39 S	11.5 E	WM	26	SE SW		36.6
39 S	11.5 E	WM	26	NE SE		37.5
39 S	11.5 E	WM	26	NW SE		36.4
39 S	11.5 E	WM	26	SW SE		38.4
39 S	11.5 E	WM	26	SE SE		39.3
39 S	11.5 E	WM	27	NE NE		22.8
39 S	11.5 E	WM	27	SE NE		13.7
39 S	11.5 E	WM	27	SW NW	1	36.0

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
39 S	11.5 E	WM	27	SE NW		14.9
39 S	11.5 E	WM	27	NE SW	3	22.5
39 S	11.5 E	WM	27	NW SW	2	2.7
39 S	11.5 E	WM	27	NE SE		6.8
39 S	11.5 E	WM	27	NW SE	4	14.0
39 S	11.5 E	WM	27	SW SE	5	14.8
39 S	11.5 E	WM	27	SE SE	6	28.3
39 S	11.5 E	WM	34	NE NE	1	33.0
39 S	11.5 E	WM	34	SE NE	2	7.1
39 S	11.5 E	WM	35	NE NE	1	15.6
39 S	11.5 E	WM	35	NE NE	16	17.0
39 S	11.5 E	WM	35	NW NE		32.6
39 S	11.5 E	WM	35	SW NE		39.0
39 S	11.5 E	WM	35	SE NE	2	10.0
39 S	11.5 E	WM	35	SE NE	15	21.2
39 S	11.5 E	WM	35	NE NW		36.6
39 S	11.5 E	WM	35	NW NW		38.7
39 S	11.5 E	WM	35	SW NW	8	30.5
39 S	11.5 E	WM	35	SE NW	5	36.0
39 S	11.5 E	WM	35	NE SW	4	8.9
39 S	11.5 E	WM	35	NE SW	6	0.2
39 S	11.5 E	WM	35	NW SW	7	2.6
39 S	11.5 E	WM	35	SE SW	4	0.1
39 S	11.5 E	WM	35	NE SE	2	5.5
39 S	11.5 E	WM	35	NW SE	3	32.4
39 S	11.5 E	WM	35	SW SE	3	3.0
39 S	11.5 E	WM	36	NE NW		36.9
39 S	11.5 E	WM	36	NW NW	1	38.8
39 S	11.5 E	WM	36	SW NW		30.0
39 S	11.5 E	WM	36	SE NW		39.4
39 S	11.5 E	WM	36	NE SW		8.6
39 S	11.5 E	WM	36	NW SW		2.6
Total						1478.2

6. Temporary Drought Transfer Application T-11829 proposes an additional point of appropriation approximately 1.3 miles northwest from the original point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	11.5 E	WM	22	SW SE	(KLAM 53779) 800 FEET NORTH AND 800 FEET EAST FROM THE S1/4 CORNER OF SECTION 22

Temporary Drought 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 are present.

9. The Governor issued an Executive Order on February 13, 2014, declaring a state of drought emergency in Klamath County due to drought and extreme weather conditions, which is still in effect and the water right proposed for transfer is on lands included in the area covered by the drought order.
10. The proposed change would not result in enlargement of the rights.
11. The proposed change, 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 OAR 690-019-055(3) if injury to existing water rights is shown and cannot be mitigated to the satisfaction of the Director and injured parties.

Conclusions of Law

The temporary change in an additional point of appropriation proposed in Temporary Drought Transfer Application T-11829 is are consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

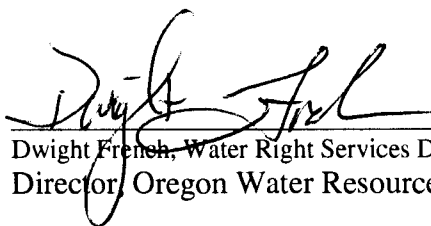
Now, therefore, it is ORDERED:

1. The temporary change in an additional point of appropriation proposed in Temporary Drought Transfer Application T-11829 is approved.
2. The approval of this temporary drought transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
3. 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 point of appropriation (new and existing).
 - 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 readings must be reported to the Department by November 15.
4. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this order, then use of water from the wells shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.
5. Prior to using water from any well listed on this order, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any

correspondence regarding the well, including any reports of water use, water level, or pump test data.

6. Prior to using the water from any well listed on this order, the wells shall be configured to allow a strictly clean water (no oil) static water level measurement with an electric-tape. That can include measurement access via an unobstructed vertical discharge pipe that allows the groundwater level to fluctuate freely within the discharge pipe (no valves, etc.). Otherwise, a dedicated measuring tube must be installed prior to use. The tube must be unobstructed, have a diameter of 3/4 inch (0.75 inch) or greater and pursuant to figure 200-5 in OAR 690-200.
7. The static groundwater level at the wells must be measured to the nearest 0.10 foot and recorded and reported to the Department within 7 days prior to drought groundwater pumping at the wells begins, and subsequently measured to the nearest 0.10 foot (inch), recorded and reported to the Department at the end of drought groundwater pumping at the wells. The last measurement must be reported to the Department by November 15 of the same year.
8. Groundwater pumping at the original point of appropriation and the additional point of appropriation shall discontinue or be reduced if area wells with permanent primary and/or supplemental groundwater rights are being regulated off due to groundwater level decline or interference with senior water rights unless the Department determines no action is necessary (pumping can continue) because the groundwater resource can sustain continued groundwater pumping under this permit without causing substantial interference with senior water rights.
9. The proposed change in additional point of appropriation shall revert to the authorized point of appropriation at the end of the 2014 irrigation season or the end of the Governor's declared drought, whichever occurs first.

Dated at Salem, Oregon this 25 day of July, 2014.



Dwight French, Water Right Services Division Administrator, for
Director, Oregon Water Resources Department

JUL 30 2014

Mailing Date: _____