

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-11831, Harney County)	EMERGENCY USE DROUGHT
)	TEMPORARY ADDITIONAL POINTS
)	OF APPROPRIATION

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

DOVERSPIKE LAND, LLC
STEVEN DOVERSPIKE
30552 HOTCHKISS LN
BURNS, OR 97720

Findings of Fact

1. On May 29, 2014, STEVEN DOVERSPIKE OF DOVERSPIKE LAND, LLC filed an application to temporarily add points of appropriation to serve the place of use under Certificates 9035, 44593 and 44594 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-11831.
2. Notice of the application for transfer was published on June 3, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 5, 2014, the Department contacted Scott Montgomery, by written correspondence to notify the applicant's agent of the deficiencies in the application. The deficiencies having to do with the authorized and proposed points of diversion, in the application. On June 17, 2014, the Department received the clarifications needed to resolve the deficiencies.
4. The first right to be temporarily transferred is as follows:

Certificate: 9035 in the name of J. C. CLEMENS (perfected under Permit U-32)
Use: IRRIGATION OF 100 ACRES
Priority Date: AUGUST 13, 1930

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.

Rate: 1.25 CUBIC FEET 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent in case of rotation.
Source: ARTESIAN WELL within the SILVIES RIVER WATERSHED

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Measured Distances
24 S	30 E	WM	1	CENTER OF NE 1/4

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	30 E	WM	1	NW NE	20.0
24 S	30 E	WM	1	SW NE	40.0
24 S	30 E	WM	1	NW SE	40.0

5. Certificate 9035 does not describe the exact location of the point of appropriation, however information is available from the applicant and Certificate 44594 indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	30 E	WM	1	SW NE	WELL 1: 3940 FEET NORTH AND 3920 FEET EAST FROM THE SW CORNER OF SECTION 1

6. The second right to be temporarily transferred is as follows:

Certificate: 44593 in the name of HOTCHKISS COMPANY, INC. (perfected under Permit G-4745)
Use: SUPPLEMENTAL IRRIGATION of 199.0 ACRES
Priority Date: NOVEMBER 14, 1969
Rate: 1.78 CUBIC FEET 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, shall be limited to ONE-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 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL within the SILVIES RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	30 E	WM	35	SE SE	6230 FEET NORTH AND 160 FEET WEST FROM THE SW CORNER OF SECTION 1

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	30 E	WM	36	SW SW	40.0
23 S	30 E	WM	36	SE SW	40.0
23 S	30 E	WM	36	SW SE	39.0
24 S	30 E	WM	1	NE NW	40.0
24 S	30 E	WM	1	NW NW	40.0

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

Certificate: 44594 in the name of HOTCHKISS COMPANY, INC. (perfected under Permit G-4746)

Use: IRRIGATION OF 33.6 ACRES AND SUPPLEMENTAL IRRIGATION OF 300.2 ACRES

Priority Date: NOVEMBER 14, 1969

Rate: 4.2 CUBIC FEET 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, shall be limited to ONE-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 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the SILVIES RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	30 E	WM	1	SE NE	3940 FEET NORTH AND 3920 FEET EAST FROM THE SW CORNER OF SECTION 1

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	30 E	WM	1	SE NE	2.0
24 S	30 E	WM	1	SE NW	12.4
24 S	30 E	WM	1	SW SW	5.2
24 S	30 E	WM	1	SE SW	9.0
24 S	30 E	WM	1	NE SE	2.0
24 S	30 E	WM	1	SE SE	3.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	30 E	WM	1	NE NE	38.8
24 S	30 E	WM	1	NW NE	20.0
24 S	30 E	WM	1	SE NE	40.0
24 S	30 E	WM	1	SW NW	12.7
24 S	30 E	WM	1	SE NW	22.0
24 S	30 E	WM	1	NE SW	25.5
24 S	30 E	WM	1	SE SW	23.0
24 S	30 E	WM	1	NE SE	40.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	30 E	WM	1	SW SE	38.2
24 S	30 E	WM	1	SE SE	40.0

8. Certificate 44594 has a typographical error describing the quarter-quarter location of the point of appropriation as being in the SENE, the correct quarter-quarter location per final proof survey map is SWNE.
9. Temporary Transfer Application T-11831 proposes additional points of appropriation with approximate distances from the existing points of appropriation identified as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from Authorized Wells
24 S	30 E	WM	1	SW NE	WELL 1: 3940 FEET NORTH AND 3920 FEET EAST FROM THE SW CORNER OF SECTION 1	Well 2 – 4752 feet Well 3 – 3960 feet
23 S	30 E	WM	35	SE SE	WELL 2: 6230 FEET NORTH AND 160 FEET WEST FROM THE SW CORNER OF SECTION 1	Well 1 – 4752 feet Well 3 – 1320 feet
24 S	30 E	WM	1	NW NW	WELL 3: 5000 FEET NORTH AND 60 FEET EAST FROM THE SW CORNER OF SECTION 1	Well 1 – 3960 feet Well 2 – 1320 feet

Temporary Drought Transfer Review Criteria

10. 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.
11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
12. The Governor issued an Executive Order on February 13, 2014, declaring a state of drought emergency in Harney 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.
13. The proposed changes would not result in enlargement of the rights.
14. The proposed changes 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

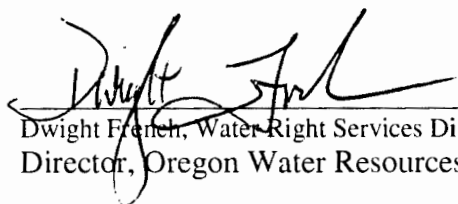
The temporary change in additional points of appropriation proposed in Temporary Drought Transfer Application T-11831 is consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

Now, therefore, it is ORDERED:

1. The additional points of appropriation proposed in Temporary Drought Transfer Application T-11831 are approved.
2. The approval of this temporary drought transfer may be revoked or modified if the Department finds the changes cause 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 additional points of appropriation shall revert to the authorized points 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

Mailing Date: JUL 30 2014