

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

In the Matter of Transfer Application        )  
T-13463, Klamath County                    )  
  )  
  )     FINAL ORDER APPROVING AN  
  )     EMERGENCY USE DROUGHT  
  )     TEMPORARY CHANGE IN  
  )     PLACE OF USE

**Authority**

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 019 implements the statutes and provides the Department’s procedures and criteria for evaluating drought transfer applications.

**Applicant**

CODY STURM  
3223 PARAMOUNT ST  
KLAMATH FALLS, OR 97603

**Findings of Fact**

1. On June 4, 2020, CODY STURM filed an application to temporarily change the place of use under Certificate 27010 and Permit G-16334 for the remainder of the 2020 irrigation season or the term of the Governor’s declared drought, whichever is shorter. The Department assigned the application number T-13463.
2. Notice of the application for transfer was published on June 16, 2020, 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:

**Certificate:** 27010 in the name of HAROLD BARNEY (perfected under Permit U-503)  
**Use:** SUPPLEMENTAL IRRIGATION OF 71.76 ACRES  
**Priority Date:** DECEMBER 26, 1952  
**Rate:** 0.90 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 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:** MILL CREEK a tributary of LOST 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 Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
41 S	13 E	WM	7	NW SW	3	20.5 CHAINS EAST AND 17 CHAINS SOUTH FROM THE W1/4 CORNER OF SECTION 7

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	12 E	WM	12	NW NE		5.00
41 S	12 E	WM	12	SW NE		37.76
41 S	12 E	WM	12	SE NE		29.00
Total						71.76

4. Temporary Transfer Application T-13463 proposes to temporarily change the place of use of the right to:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	12 E	WM	24	SW NE		40.00
41 S	12 E	WM	24	NW SE		30.00
41 S	12 E	WM	24	NE SW		1.76
Total						71.76

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

**Water Use Permit:** G -16334 in the name of LESTER STURM

**Use:** SUPPLEMENTAL IRRIGATION of 169.4 ACRES

**Priority Date:** MAY 18, 2007

**Rate:** 2.11 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, and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Period of Use:** APRIL 15 THROUGH SEPTEMBER 30

**Source:** WELL KLAM 53340 IN MILLS CREEK BASIN

**Authorized Point Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
41 S	13 E	WM	18	NW NW		640 FEET SOUTH AND 920 FEET EAST FROM THE NW CORNER OF SECTION 18

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	12 E	WM	12	NE SE		38.30
41 S	12 E	WM	12	NW SE		36.70
41 S	13 E	WM	18	NE NW		15.20
41 S	13 E	WM	18	NW NW	1	13.20
41 S	13 E	WM	18	SW NW	2	27.20
41 S	13 E	WM	18	SE NW		17.30
41 S	13 E	WM	18	NE SW		13.90

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	13 E	WM	18	NW SW	3	7.60
Total						169.40

6. Temporary Transfer Application T-13463 proposes to temporarily change the place of use of the right to:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres
41 S	12 E	WM	24	NW NE	300	37.00
41 S	12 E	WM	24	NE NW	100	38.00
41 S	13 E	WM	24	NW NW	600	40.00
41 S	13 E	WM	24	SE NW	600	36.16
41 S	13 E	WM	24	NE SW	900	18.24
Total						169.40

***Temporary Drought Transfer Review Criteria***

7. 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.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
9. The Governor issued an executive order on March 2, 2020, 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 changes would not result in enlargement of the rights.
11. 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 places of use proposed in Temporary Drought Transfer Application T-13463 are consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

### Now, therefore, it is ORDERED:

1. The temporary change in places of use, proposed in Temporary Drought Transfer Application T-13463 are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the remainder of the 2020 irrigation season or until the end of the Governor's declared drought, whichever occurs first.
3. 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.
4. The use of water at the temporary places of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 27010 and Permit G-16334. The use shall revert to the authorized place of use at the end of the 2020 irrigation season.
5. The proposed change in place of use, shall revert to the authorized place of use, at the end of the 2020 irrigation season or the end of the Governor's declared drought, whichever occurs first.
6. The use of the remaining water rights described by Certificate 27010 and Permit G-16334 shall continue to be in accordance with the terms and conditions of Certificate 27010 and G-16334.

Dated in Salem, Oregon on

JUL 30 2020

  
Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M BYLER, DIRECTOR  
Oregon Water Resources Department

Mailing Date:

AUG 01 2020