

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-13219, Yamhill County	)	TEMPORARY CHANGES IN PLACE
	)	OF USE AND POINT OF DIVERSION

**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**

WILLAMETTE VALLEY LAND, LLC  
C/O PAUL KUEHNE  
PO BOX 99  
LAFAYETTE, OR 97127

**Findings of Fact**

1. On July 12, 2019, WILLAMETTE VALLEY LAND, LLC C/O PAUL KUEHNE, filed an application to temporarily change the place of use and change the point of diversion to serve the proposed place of use under Certificate 59044 for a period of 1 year. The Department assigned the application number T-13219.
2. Notice of the application for transfer was published on July 23, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 1, 2019, the Department contacted the applicant and agent in writing, requesting that deficiencies in the application be revised. The Land Use Information Form tax lots must match the "TO" map, there appeared to be extra acreage listed on the "FROM" map, which was not listed in Table 2, and the "TO" map was illegible, making it difficult to match the information with the Land Use and Table 2.
4. On August 9, 2019, the applicant's agent responded to the Department in writing with a revised Land Use form, revised "TO" and "FROM" maps and a revised Table 2.

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.

5. On August 21, 2019, the Department contacted the agent in writing requesting that the maps and tables be revised to reflect the same amount of acres.
6. On August 30, 2019, the Department contacted the agent in writing and via telephone, to discuss the revisions requested. On August 30, 2019, the agent responded with the revisions in writing, which allowed the Department to proceed with the application.
7. The portion of the right to be temporarily transferred is as follows:

**Certificate:** 59044 in the name of PETER DINSDALE (perfected under Permit S-44308)  
**Use:** IRRIGATION of 191.1 ACRES  
**Priority Date:** JANUARY 24, 1979  
**Rate:** 2.3 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year. THE RIGHT SHALL BE LIMITED TO ANY DEFICIENCY IN THE AVAILABLE SUPPLY OF ANY PRIOR RIGHT FOR THE SAME LAND AND SHALL NOT EXCEED THE LIMITATION ALLOWED HEREIN.  
**Source:** SOUTH YAMHILL RIVER, tributary to YAMHILL RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	5 W	WM	14	NE NE	66	RIVER - 250 FEET SOUTH AND 2100 FEET WEST FROM THE SW CORNER OF DLC 74

**Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
5 S	5 W	WM	12	NE SW	1		1.9
5 S	5 W	WM	12	NW SW			6.2
5 S	5 W	WM	12	SW SW	2		7.4
5 S	5 W	WM	12	SW SW		66	15.3
5 S	5 W	WM	12	SE SW		66	4.1
5 S	5 W	WM	13	NE NE		66	13.5
5 S	5 W	WM	13	NW NE		66	11.6
5 S	5 W	WM	13	SW NE		66	22.1
5 S	5 W	WM	13	SE NE		66	22.8
5 S	5 W	WM	13	NE NW		66	14.7
5 S	5 W	WM	13	NW NW		66	35.6
5 S	5 W	WM	13	SW NW		66	22.5
5 S	5 W	WM	13	SE NW		66	13.4
TOTAL							191.1

8. Temporary Transfer Application T-13219 proposes to temporarily change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
4 S	4 W	WM	31	NW NE		74	5.4
4 S	4 W	WM	31	SW NE		74	12.4
4 S	4 W	WM	31	SW NE	5		2.8
4 S	4 W	WM	31	SE NE		59	3.2
4 S	4 W	WM	31	SE NE	6		0.2
4 S	4 W	WM	31	NE SE		59	24.0
4 S	4 W	WM	31	NE SE	7		1.0
4 S	4 W	WM	31	NW SE			21.0
4 S	4 W	WM	31	SW SE			21.0
4 S	4 W	WM	31	SE SE		59	24.0
4 S	4 W	WM	31	SE SE	8		1.0
4 S	4 W	WM	32	SW NW		59	2.1
4 S	4 W	WM	32	NW SW		59	18.6
4 S	4 W	WM	32	SW SW		59	12.5
4 S	4 W	WM	32	SW SW		59	4.8
4 S	4 W	WM	32	SE SW		59	4.0
5 S	4 W	WM	6	NE NE	6		0.7
5 S	4 W	WM	6	NE NE		37	10.0
5 S	4 W	WM	6	NW NE			15.2
5 S	4 W	WM	6	SW NE			7.2
TOTAL							191.1

9. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13219 proposes to move the authorized point of diversion approximately 2.7 miles (mi.) downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	4 W	WM	6	SE NE	1600 FEET SOUTH AND 400 FEET WEST FROM THE NE CORNER OF SECTION 6

**Temporary Transfer Review Criteria**

10. 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.
11. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
12. The proposed changes would not result in enlargement of the right.
13. 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 ORS 540.523(5) if the Department later finds that the transfer is causing injury to any existing water right.

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**Conclusions of Law**

The temporary change in place of use and change in point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13219 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

**Now, therefore, it is ORDERED:**

1. The temporary change in place of use and change in point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13219 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2019 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2019 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 cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificate 59044 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 59044.
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. The use of the remaining water right described by Certificate 59044 shall continue to be in accordance with the terms and conditions of Certificate 59044.

Dated in Salem, Oregon on SEP 19 2019



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

Mailing Date: SEP 20 2019