

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

In the Matter of Transfer Application)
T-12910, 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

ROBERT UNRUH
30083 PICKETT RD
MALIN, OR 97632

Findings of Fact

1. On April 23, 2018, Robert Unruh filed an application to temporarily change the place of use under Certificate 27103 and Water Use Permit G-12450 for the remainder of the 2018 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-12910.
2. Notice of the application for transfer was published on May 1, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 2, 2018, the Department contacted the applicant regarding a deficiency in the application; tables describing the place of use were missing from the application.
4. The portion of the first right to be temporarily transferred is as follows:

Certificate: 27103 in the name of ALICE PEREIRA (perfected under Permit G-255)
Use: IRRIGATION of 10.0 ACRES
Priority Date: MAY 28, 1956
Rate: 1.4 CUBIC FEET PER SECOND

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.

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 a diversion of ONE-EIGHTIETH of one cubic foot per second, 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: PEREIRA WELL within the TULELAKE SUB BASIN

Authorized Point Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	12 E	WM	28	SW SW	3 CHAINS NORTH AND 15.75 CHAINS EAST FROM THE SW CORNER OF SECTION 28

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	12 E	WM	28	SW NW	10.0

5. Temporary Transfer Application T-12910 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres
40 S	12 E	WM	33	NE SW	900	3.0
40 S	12 E	WM	33	NW SW	800	7.0
Total:						10.0

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

Permit: G-12450 in the name of R AND C AG LLC (applied for under Application G-12860)

Use: PRIMARY IRRIGATION of 18.4 AND SUPPLEMENTAL IRRIGATION of 12.0 ACRES

Priority Date: APRIL 6, 1992

Rate: 0.505 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, 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.

Period of Use: April 15 through October 15

Source: TWO WELLS IN THE LOST RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	12 E	WM	28	SW SW	WELL#1-200 FEET NORTH AND 1040 FEET EAST FROM THE SW CORNER OF SECTION 28
40 S	12 E	WM	28	SW SW	WELL#2-150 FEET NORTH AND 790 FEET EAST FROM SW CORNER, SECTION 28

Authorized Place of Use:

PRIMARY IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Well #
40 S	12 E	WM	28	SW NW	17.4	1
40 S	12 E	WM	28	NW SW	1.0	1
Total:					18.4	-

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Well #
40 S	12 E	WM	28	SW SW	6.0	2
40 S	12 E	WM	33	SW SW	6.0	1
Total:					12.0	-

7. Temporary Transfer Application T-12910 proposes to temporarily change the place of use of the right to:

PRIMARY IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
40 S	12 E	WM	33	NE SW	900	17.4
40 S	12 E	WM	33	NW SW	801	1.0
Total:						18.4

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
40 S	12 E	WM	33	NW SW	801	12.0

Temporary Drought Transfer Review Criteria

8. 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.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
10. The Governor issued an executive order on March 13, 2018, 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.
11. The proposed changes would not result in enlargement of the rights.
12. 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 place of use proposed in Temporary Drought Transfer Application T-12910 is consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

Now, therefore, it is ORDERED:

1. The temporary change in place of use proposed in Temporary Drought Transfer Application T-12910 is approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the remainder of the 2018 irrigation season or until the end of the Governor's declared drought, whichever occurs first.
3. A portion of Claim KA-1000 may underlie the proposed place of use described in the findings above. This portion of the Claim described shall not be exercised on the lands described for the duration of this emergency drought temporary transfer.
4. 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.
5. 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 27103 and Permit G-12450. The use shall revert to the authorized place of use at the end of the 2018 irrigation season.
6. The proposed change in place of use shall revert to the authorized place of use at the end of the 2018 irrigation season or the end of the Governor's declared drought, whichever occurs first.
7. The use of the remaining water rights described by Certificate 27103 and Permit G-12450 shall continue to be in accordance with the terms and conditions of Certificate 27103 and Permit G-12450.

Dated at Salem, Oregon this MAY 09 2018 .



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

Mailing Date: MAY 10 2018