

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-11874, Jackson County)	EMERGENCY USE DROUGHT
)	TEMPORARY CHANGE IN PLACE OF
)	USE

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

MARK TOENIES
696 STRADER ROAD
ROSEBURG, OREGON 97470

Findings of Fact

1. On August 12, 2014, MARK TOENIES filed an application to temporarily change the place of use under Certificate 47712 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-11874.
2. Notice of the application for transfer was published on August 19, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The right to be temporarily transferred is as follows:

Certificate: 47712 in the name of GERALDINE S. BRYANT (perfected under the Rogue River Decree)

Use: IRRIGATION of 8.0 ACRES

Priority Date: 1888

Rate: 0.133 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes.

Source: EAST FORK EVANS CREEK a tributary of EVANS CREEK

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 of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	2 W	WM	20	NE SE	750 FEET SOUTH AND 450 FEET WEST FROM THE E1/4 CORNER OF SECTION 20

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	2 W	WM	20	NE SE	8.0

4. Certificate 47712 does describe the location of the point of diversion, however information is available from the applicant indicating that the point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	2 W	WM	20	NE SE	700 FEET SOUTH AND 700 FEET WEST FROM THE E1/4 CORNER OF SECTION 20

5. Temporary Drought Transfer Application T-11874 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	2 W	WM	20	NE SE	8.0

Temporary Drought Transfer Review Criteria

6. 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.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
8. The Governor issued an executive order on May 6, 2014, declaring a state of drought emergency in Jackson 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.
9. The proposed change would not result in enlargement of the rights.
10. The proposed change 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-11874 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-11874 is approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the remainder of the 2014 irrigation season or until the end of the Governor's declared drought, whichever occurs first.
3. The portions of Water Right Certificates 22331 and 43480 located on the "to" lands shall not be exercised during the duration of this transfer.
4. 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.
5. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 47712. The use shall revert to the authorized place of use at the end of the 2014 irrigation season.
6. The proposed change in place of use shall revert to the authorized place of use 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 26 day of August, 2014.



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

Mailing Date: AUG 28 2014