

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

| | | |
|---------------------------------------|---|---------------------------|
| In the Matter of Transfer Application |) | FINAL ORDER APPROVING AN |
| T-11858, Klamath 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

DRISCOLL STRAWBERRY ASSOCIATES, INC.
C/O HOLLY BURGESS
434 REDCLIFF RD SUITE D
REDDING, CA 96002

Findings of Fact

1. On July 11, 2014, DRISCOLL STRAWBERRY ASSOCIATES INC. , C/O HOLLY BURGESS filed an application to temporarily change the place of use under Certificate 86143 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-11858.
2. Notice of the application for transfer was published on July 15, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the right to be temporarily transferred is as follows:
Certificate: 86143 in the name of DRISCOLL STRAWBERRY ASSOCIATES INC.,
C/O HOLLY BURGESS (perfected under Permit G-15347)
Use: SUPPLEMENTAL IRRIGATION of 62.0 ACRES
Priority Date: JUNE 24, 2002
Rate: 0.34 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. The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: WELL 3 in the LOST RIVER BASIN

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|---|
| 41 S | 11 E | WM | 9 | NE NW | 90 FEET SOUTH AND 139 FEET WEST FROM THE N1/4 CORNER OF SECTION 9 |

Authorized Place of Use:

| SUPPLEMENTAL IRRIGATION | | | | | | |
|-------------------------|------|-----|-----|-------|------|-------|
| Twp | Rng | Mer | Sec | Q-Q | GLot | Acres |
| 41 S | 11 E | WM | 9 | NW NW | | 28.82 |
| 41 S | 11 E | WM | 9 | SW NW | 4 | 15.62 |
| 41 S | 11 E | WM | 9 | SW NW | 5 | 14.38 |
| 41 S | 11 E | WM | 9 | NW SW | 9 | 3.18 |
| Total: | | | | | | 62.00 |

4. Temporary Drought Transfer Application T-11858 proposes to temporarily change the place of use of the right to:

| SUPPLEMENTAL IRRIGATION | | | | | | |
|-------------------------|------|-----|-----|-------|------|-------|
| Twp | Rng | Mer | Sec | Q-Q | GLot | Acres |
| 41 S | 11 E | WM | 9 | NE NE | | 6.0 |
| 41 S | 11 E | WM | 9 | SE NE | 1 | 30.6 |
| 41 S | 11 E | WM | 9 | SE NE | 8 | 8.4 |
| 41 S | 11 E | WM | 9 | NE SE | 8 | 17.0 |
| Total: | | | | | | 62.0 |

Temporary Drought Transfer Review Criteria

5. 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.
6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.

7. The Governor issued an executive order on February 13, 2014, 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.
8. The proposed change would not result in enlargement of the right.
9. 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.

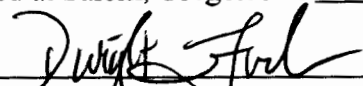
Conclusions of Law

The temporary change in place of use proposed in Temporary Drought Transfer Application T-11858 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-11858 is approved.
2. The former places 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 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 86143. The use shall revert to the authorized place of use at the end of the 2014 irrigation season.
5. The proposed change in place of use shall revert to the authorized place of use point of appropriation at the end of the 2014 irrigation season or the end of the Governor's declared drought, whichever occurs first.
6. The use of the remaining water right described by Certificate 86143 shall continue to be in accordance with the terms and conditions of Certificate 86143.

Dated at Salem, Oregon this 20 day of August, 2014.



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

Mailing Date: AUG 28 2014