

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-12992, Baker County)	EMERGENCY USE DROUGHT
)	TEMPORARY CHANGE IN PLACE OF
)	USE, AND CHANGE IN POINT OF
)	DIVERSION

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

KYLE AND CHARITY RANSOM
40271 HWY 86
RICHLAND, OR 97870

Findings of Fact

1. On July 30, 2018, KYLE AND CHARITY RANSOM filed an application to temporarily change the place of use and change the point of diversion under Certificate 4600 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-12992.
2. Notice of the application for transfer was published on August 7, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 16, 2018 the Department contacted the applicant by phone regarding a deficiency in the application, specifically applicant was proposing to transfer an inchoate right which is not subject to transfer under OAR 690-019-0055.
4. On August 23, 2018 the applicant amended the application via e-mail, satisfying the deficiency.

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

Certificate: 4600 in the name of E. A. BENNEHOFF (confirmed by decree of the Circuit Court of the State of Oregon for Baker County, and the said decree entered of record at Salem, in the Order Record of the STATE WATER BOARD of the State of Oregon, in Volume six, at page 291)

Use: IRRIGATION of 39.0 ACRES

Priority Date: 1881

Rate: 0.975 CUBIC FEET PER SECOND (CFS)

Limit/Duty: The amount of water to which such right is entitled, for the purposed aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed ONE-FORTIETH of one cubic foot per second per acre, and shall be subject to all other conditions and limitations contained in said decree.

Source: EAGLE CREEK a tributary of POWDER RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	24	SW NW	39.0

6. Certificate 4600 does not describe the location of the point of diversion, however based on information provided by the applicant, the point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	45 E	WM	33	SE NW	1950 FEET SOUTH AND 1400 FEET EAST FROM THE NW CORNER OF SECTION 33

7. Temporary Transfer Application T-12992 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	23	NE SE	25.5
9 S	45 E	WM	23	SE SE	13.5
Total					39.0

8. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12992 proposes to move the authorized point of diversion approximately 2.3 miles upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	45 E	WM	10	SE NW	300 FEET SOUTH AND 100 FEET WEST FROM THE C1/4 CORNER OF SECTION 10

Temporary Drought Transfer Review Criteria

9. 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.
10. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right is present.

11. The Governor issued an executive order on June 14, 2018, declaring a state of drought emergency in Baker 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.
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 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 and point of diversion proposed in Temporary Drought Transfer Application T-12992 are 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 and point of diversion proposed in Temporary Drought Transfer Application T-12992 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. 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 4600. The use shall revert to the authorized place of use at the end of the 2018 irrigation season.
5. The proposed change in place of use and point of diversion shall revert to the authorized place of use and point of diversion at the end of the 2018 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 4600 shall continue to be in accordance with the terms and conditions of Certificate 4600.

Dated at Salem, Oregon this **AUG 29 2018**



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

Mailing Date: **AUG 30 2018**