

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

In the Matter of Transfer Application)	AN EMERGENCY USE DROUGHT
T-11663, Klamath County)	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

KNOLL RANCH LLC
5429 REEDER RD
KLAMATH FALLS, OR 97603

Findings of Fact

Background

1. On September 9, 2013, KNOLL RANCH LLC filed an application to temporarily change the place of use for a portion of Claim KA-1000 for the remainder of the 2013 irrigation season or the term of the Governor’s declared drought, whichever is shorter. The Department assigned the application number T-11663.
2. The applicant has provided consent by deeded landowner of the “from” lands.
3. The applicant has indicated that portions of Water Right Certificate 67133 (Application S-55994) and T-11266 are located on portions of the “to” lands. In addition, the Department has found that Water Right Certificate 65658 overlies a portion of the “from” lands.
4. Notice of the application for transfer was published on September 10, 2013 pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. The portion of the claim to be temporarily transferred is as follows:

Claim:	KA 1000 in the names of DON BUFFINGTON; WINEMA HUNTING LODGE; ET. AL. (described in Partial Order of Determination, entered March 7, 2013 at Sp. Ord. Vol. 89, Page 71)
Use:	IRRIGATION OF 383.5 ACRES

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.

Priority Date: MAY 19, 1905
Season of use: MARCH 1 TO OCTOBER 31
Rate: 1/40 cubic foot per second per acre
Duty: 3.5 acre-feet per acre irrigated during the irrigation season of each year
Source: UPPER KLAMATH LAKE within the KLAMATH RIVER BASIN

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
37 S	8 E	WM	13	NE NE	2		NONE GIVEN

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
37 S	8 E	WM	25	SE NE	5	7.6
37 S	8 E	WM	25	NE SE	6	14.8
37 S	8 E	WM	25	SE SE	8	14.0
37 S	8 E	WM	36	NE NE	1	12.0
37 S	8 E	WM	36	SE NE	2	10.2
37 S	8 E	WM	36	NE SE	3	8.4
37 S	8 E	WM	36	SE SE	4	1.1
37 S	9 E	WM	30	SW NW	6	6.5
37 S	9 E	WM	30	NW SW	6	34.6
37 S	9 E	WM	30	SW SW	7	49.7
37 S	9 E	WM	30	SE SW	8	11.4
37 S	9 E	WM	31	NW NE	7	2.8
37 S	9 E	WM	31	SW NE	2	3.1
37 S	9 E	WM	31	SW NE	12	9.5
37 S	9 E	WM	31	NE NW	8	34.0
37 S	9 E	WM	31	NW NW	9	51.2
37 S	9 E	WM	31	SW NW	10	44.0
37 S	9 E	WM	31	SE NW	11	42.3
37 S	9 E	WM	31	NE SW	4	0.8
37 S	9 E	WM	31	NE SW	11	3.7
37 S	9 E	WM	31	NW SW	13	21.8
Total						383.5

6. Temporary Drought Transfer Application T-11663 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
37 S	8 E	WM	12	NE NE		6.0
37 S	8 E	WM	12	SE NE		3.0
37 S	8 E	WM	12	SW SE	4	7.7
37 S	8 E	WM	12	SE SE	4	38.7
37 S	8 E	WM	13	NE NE		39.8
37 S	8 E	WM	13	NE NE		14.0
37 S	8 E	WM	13	SE NE		11.3
37 S	9 E	WM	6	SE SW		6.6
37 S	9 E	WM	7	NW NE		38.0
37 S	9 E	WM	7	NW NW	1	30.9
37 S	9 E	WM	7	SW NW	2	47.9
37 S	9 E	WM	7	SE NW		24.0

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
37 S	9 E	WM	7	NE SW		5.8
37 S	9 E	WM	7	NW SW	3	37.8
37 S	9 E	WM	7	SW SW		30.1
37 S	9 E	WM	18	NW NW		35.5
37 S	9 E	WM	18	SW NW		6.4
Total						383.5

Temporary Transfer Review Criteria

7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing claim is present.
8. The Governor issued an executive order on April 18, 2013, 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.
9. The proposed changes would not result in enlargement of the claims.
10. 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-11663 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-11663 is approved.
2. The former places of use **shall not** be irrigated during the remainder of the 2013 irrigation season or until the end of the Governor’s declared drought, whichever occurs first.
3. The portions of Water Right Certificate 65658 located on the “from” lands and Certificate 67133 and T-11266 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 places of use authorized by this transfer shall be in accordance with the terms and conditions of KA-1000.

6. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
7. The proposed change in place of use shall revert to the authorized place of use at the end of the 2013 irrigation season or the end of the Governor's declared drought, whichever occurs first.
8. The use of the remaining claim described by KA-1000 shall continue to be in accordance with the terms and conditions of Claim KA-1000.

Dated at Salem, Oregon this 10th day of September, 2013.

E. Timothy Wall for

Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing Date: SEP 11 2013