

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

In the Matter of Transfer Application)
 T-12643, Wallowa County)
) **FINAL ORDER APPROVING
 TEMPORARY CHANGES IN PLACE
 OF USE AND POINTS OF DIVERSION**

Authority

Oregon Revised Statute (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of diversion authorized under an existing water right.

Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

GORDON WOLFE
 70389 BAKER RD
 WALLOWA, OR 97885

Findings of Fact

1. On April 17, 2017, GORDON WOLFE filed an application to temporarily change the place of use and change the points of diversion to serve the proposed place of use under Certificates 57247 and 65283 for a period of 5 years. The Department assigned the application number T-12643.
2. On May 9, and 19, 2017, the Department contacted the Applicant and the Watermaster to correctly identify the changes in the application. An email confirming the changes was received on May 12, and 19, 2017, resolving the deficiencies in the application.
3. Notice of the application for transfer was published on April 25, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. The first right to be temporarily transferred is as follows:

Certificate: 57247 in the name of MOORE BROTHERS (perfected under Permit S-39244)

Use: IRRIGATION of 55.0 ACRES

Priority Date: JUNE 18, 1974

Rate: 1.0 CUBIC FOOT 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, shall be limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WALLOWA RIVER, a tributary of GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	44 E	WM	24	SE NE	1030 FEET NORTH AND 390 FEET WEST FROM THE E 1/4 CORNER OF SECTION 24

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	44 E	WM	32	NW NW	20.7
1 S	44 E	WM	32	SW NW	12.3
1 S	44 E	WM	32	SE NW	22.0
Total					55.0

5. Temporary Transfer Application T-12643 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	20	SW NE	2.4
1 S	43 E	WM	20	SE NW	11.5
1 S	43 E	WM	20	NE SW	0.8
1 S	43 E	WM	20	NW SE	1.6
1 S	43 E	WM	21	NE SW	11.0
1 S	43 E	WM	21	NW SW	19.0
1 S	43 E	WM	21	SE SW	8.7
Total					55.0

6. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12643 proposes to move the authorized point of diversion approximately 17.9 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	28	NE NE	TM - 250 FEET SOUTH AND 450 FEET EAST FROM THE E1/16 OF THE NE CORNER OF SECTION 28

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

Certificate: 65283 in the name of MERTON S. WADE (perfected under Permit S-41469)

Use: IRRIGATION of 62.3 ACRES

Priority Date: FEBRUARY 14, 1977

Rate: 1.56 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited

to a diversion of ONE-FORTIETH of one cubic foot per second (or its equivalent) and 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WALLOWA RIVER, a tributary of GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	24	NE SW	DIVERSION 2 - 2320 FEET NORTH AND 3180 FEET WEST FROM SE CORNER, SECTION 24

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	13	SW SE	27.7
1 S	43 E	WM	13	SE SE	5.2
1 S	43 E	WM	24	NW NE	21.8
1 S	43 E	WM	24	SW NE	7.6
Total					62.3

8. Temporary Transfer Application T-12643 proposes to temporarily change the place of use of the right to:

POD	Twp	Rng	Mer	Sec	Q-Q	Acres
TM	1 S	43 E	WM	20	SW NW	3.8
TM	1 S	43 E	WM	20	SE NW	8.9
PACE	1 S	43 E	WM	21	SW NW	24.0
PACE	1 S	43 E	WM	21	NE SW	25.6
Total						62.3

9. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12643 proposes to move the authorized point of diversion approximately 5.4 to 6.6 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	27	NW NW	PACE – 1280 FEET SOUTH AND 291 FEET EAST FROM THE NW CORNER OF SECTION 27
1 S	43 E	WM	28	NE NE	TM - 250 FEET SOUTH AND 450 FEET EAST FROM THE E1/16 OF THE NE CORNER OF SECTION 28

10. Temporary Transfer Application T-12643 proposes to temporarily transfer water rights within the boundaries of Alderslope Ditch Company. The district was notified of the proposed temporary transfer and indicated that the district did not object to the transfer.

Temporary Transfer Review Criteria

11. 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.
12. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.

13. The proposed changes would not result in enlargement of the rights.
14. 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 ORS 540.523(5) if the Department later finds that the transfer is causing injury to any existing water right.

Conclusions of Law

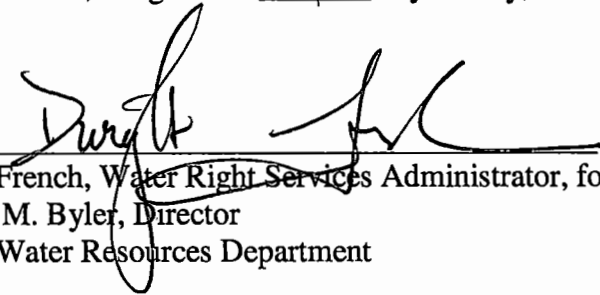
The temporary changes in place of use and points of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12643 are consistent with the requirements of ORS 540.523, and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and points of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12643 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2017, 2018, 2019, 2020 and 2021 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2021 irrigation season. The authorization to use the additional points of diversion shall be terminated concurrently.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificates 57247 and 65283 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
6. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 57247 and 65283.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
8. Water use measurement conditions:
 - a. **Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

9. The use of the remaining water right described by Certificate 65283 shall continue to be in accordance with the terms and conditions of Certificate 65283.

Dated at Salem, Oregon this 14 day of July, 2017.


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

Mailing Date: JUL 18 2017