

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING TEMPORARY
T-13696, Wallowa County	)	CHANGES IN PLACE OF USE AND POINT
	)	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**

RICHARD FRASCH, MANAGER  
LONG OAK LLC, BRANTWOOD LLC  
PO BOX 459  
ENTERPRISE, OR 97828

**Findings of Fact**

1. On May 3, 2021, RICHARD FRASCH, MANAGER, LONG OAK LLC, BRANTWOOD LLC filed an application to temporarily change the place of use under Certificate 7716, and to change the place of use and change the point of diversion to serve the proposed place of use under Certificate 48313 for a period of 5 years. The Department assigned the application number T-13696.
2. Notice of the application for transfer was published on May 11, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

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.

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

**Certificate:** 7716 in the name of BIG BEND WATER DITCH COMPANY (confirmed by WALLOWA RIVER Decree)

**Use:** IRRIGATION of 28.8 ACRES

**Priority Date:** FEBRUARY 1884

**Limit/Duty:** Shall not exceed 1.5 acre feet per acre during any period of thirty days prior to July 31<sup>st</sup> of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season.

**Source:** WALLOWA RIVER, a tributary of the GRANDE RONDE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q
<i>Not specified in certificate</i>				

**Authorized Place of Use:**

IRRIGATION – TRACT NO. 2					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	45 E	WM	10	NE SW	0.8
2 S	45 E	WM	10	NW SW	0.8
2 S	45 E	WM	10	SE SW	1.8
2 S	45 E	WM	10	NW SE	0.6
2 S	45 E	WM	15	NE NW	2.4
2 S	45 E	WM	15	NW NW	11.2
Total					17.6

IRRIGATION – TRACT NO. 5					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	45 E	WM	15	SW NW	4.5
2 S	45 E	WM	15	SE NW	2.3
2 S	45 E	WM	15	NE SW	1.0
2 S	45 E	WM	15	NW SW	1.7
2 S	45 E	WM	15	NW SE	1.7
Total					11.2

4. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 7716 as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	45 E	WM	31	NE NE	LATITUDE: 45.350726 LONGITUDE: -117.232953

5. Temporary Transfer Application T-13696 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	45 E	WM	15	SW NE	20.1
2 S	45 E	WM	15	NW SE	8.7
Total					28.8

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

**Certificate:** 48313 in the name of SILVER LAKE WATER DITCH COMPANY (confirmed by WALLOWA RIVER Decree)  
**Use:** IRRIGATION of 2.0 ACRES, DOMESTIC, and STOCK USE  
**Priority Date:** 1893  
**Limit/Duty:** Shall not exceed 1.5 acre feet per acre during any period of thirty days prior to July 31<sup>st</sup> of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season.  
**Source:** WALLOWA RIVER, a tributary of GRANDE RONDE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	GlOt	Measured Distances
3 S	45 E	WM	5	NE NW	4	SILVER LAKE DITCH - 900 FEET SOUTH AND 1700 FEET EAST FROM THE NW CORNER OF SECTION 5

**Authorized Place of Use:**

IRRIGATION, DOMESTIC, AND STOCK USE					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	45 E	WM	26	NE SE	1.1
2 S	45 E	WM	26	SE SE	0.9
Total					2.0

7. Temporary Transfer Application T-13696 proposes to temporarily change the place of use of the right to:

IRRIGATION, DOMESTIC, AND STOCK USE					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	45 E	WM	15	SW NE	1.0
2 S	45 E	WM	15	SE NW	1.0
Total					2.0

8. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13696 proposes to move the authorized point of diversion approximately 1.6 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	45 E	WM	31	NE NE	POD 2: LATITUDE: 45.350726 LONGITUDE: -117.232953

**Temporary Transfer Review Criteria**

9. 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.

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

11. The proposed changes would prevent the lands from which the water right is removed during the period of the temporary transfer from receiving water under the transferred rights, as required by ORS 540.523(7).
12. 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 point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13696 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

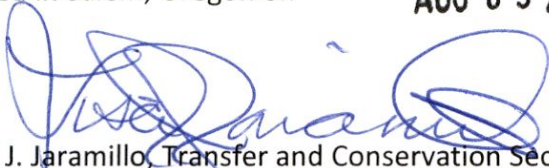
### **Now, therefore, it is ORDERED:**

1. The temporary change in places of use and change in point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13696 is approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2021, 2022, 2023, 2024 and 2025 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2025 irrigation season. The authorization to use the additional point 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 7716 and 48313 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 7716 and 48313.
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. The use of the remaining water rights described by Certificates 7716 and 48313 shall continue to be in accordance with the terms and conditions of Certificates 7716 and 48313.

Dated in Salem, Oregon on

**AUG 05 2021**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M BYLER, DIRECTOR  
Oregon Water Resources Department

*Mailing Date:*

**AUG 06 2021**