

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13147, Baker County)	TEMPORARY CHANGES IN PLACE
)	OF USE AND ADDITIONAL 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

CHAD DEL CURTO
42173 MOODY RD
RICHLAND, OR 97870

STEVE SHARP
36975 SULLIVAN LANE
RICHLAND, OR 97870

Findings of Fact

1. On March 11, 2019, CHAD DEL CURTO AND STEVE SHARP filed an application to temporarily change the place of use and add a point of diversion to serve the proposed place of use under Certificates 4597, 83363 AND 89274 for a period of 5 years. The Department assigned the application number T-13147.
2. Notice of the application for transfer was published on March 19, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the first right to be temporarily transferred is as follows:
Certificate: 4597 in the name of W.E. AND A.L. BARBER (perfected under POWDER RIVER DECREE)
Use: IRRIGATION of 35.53 ACRES
Priority Date: 1881
Rate: 0.89 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 to which such right is entitled, for the purposes of the 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 Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
<i>Not Specified in Certificate</i>				

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	24	NE NW	35.53

4. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 4597 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	45 E	WM	10	SE NW	KAY YOUNG DITCH (KY) - 940 FEET NORTH AND 190 FEET WEST FROM THE C 1/4 CORNER OF SECTION 10

5. Transfer application T-13147 proposes to temporarily add an additional point of diversion of the right approximately 2.5 miles upstream from the original point of diversion (POD) to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH (NY) - 690 FEET NORTH AND 1240 FEET WEST FROM THE C 1/4 CORNER OF SECTION 33

6. Transfer application T-13147 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	24	SE NW	15.0
9 S	45 E	WM	24	NE SW	20.53
TOTAL					35.53

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

Certificate: 83363 in the name of PAUL KNOBLAUCH (perfected under Powder River Decree)

Use: IRRIGATION of 113.7 ACRES

Priority Date: 1881

Rate: 2.84 CUBIC FEET PER SECOND

Source: EAGLE CREEK, tributary to POWDER RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
<i>Not Specified in Certificate</i>				

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	24	SE NW	40.0
9 S	45 E	WM	24	NE SW	30.6
9 S	45 E	WM	24	NW SE	11.1
9 S	45 E	WM	24	SW SE	32.0
TOTAL					113.7

8. Transfer application T-13147 proposes a temporary additional point of diversion located approximately 2.5 miles (mi.) upstream from the original POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH (NY) - 690 FEET NORTH AND 1240 FEET WEST FROM THE C 1/4 CORNER OF SECTION 33

9. Transfer application T-13147 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	24	NE NW	40.0
9 S	45 E	WM	24	SE NW	20.0
9S	45 E	WM	24	NE SW	10.6
9S	45 E	WM	24	SE SW	19.5
9S	45 E	WM	24	NW SE	11.1
9S	45 E	WM	24	SW SE	12.5
TOTAL					113.7

10. The third right to be temporarily transferred is as follows:

Certificate: 89274 in the name of BOB AND VINA MORRISON (perfected under POWDER RIVER DECREE)
Use: IRRIGATION of 19.5 ACRES
Priority Date: 1885
Rate: 0.49 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed ONE-FORTIETH OF ONE CUBIC FOOT PER SECOND PER ACRE, or its equivalent in case of rotation, measured at the point of diversion.
Source: EAGLE CREEK tributary to POWDER RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	45 E	WM	10	SE NW	KAY YOUNG DITCH (KY) - 940 FEET NORTH AND 190 FEET WEST FROM C1/4 CORNER OF SECTION 10

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	24	SE SW	19.5

11. Transfer application T-13147 proposes to temporarily add an additional point of diversion of the right approximately 2.5 miles (mi.) upstream from the original POD to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH (NY) - 690 FEET NORTH AND 1240 FEET WEST FROM THE C 1/4 CORNER OF SECTION 33

12. Transfer application T-13147 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	24	SW SE	19.5

Temporary Transfer Review Criteria

13. 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.
14. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
15. The proposed changes would not result in enlargement of the rights.
16. 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

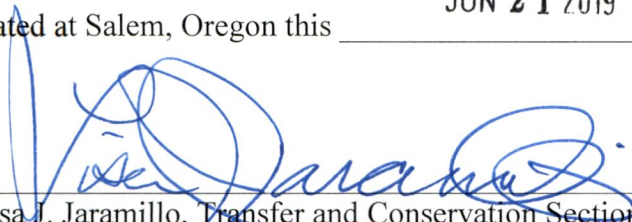
The temporary changes in place of use and additional point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13147 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and additional point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13147 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2019, 2020, 2021, 2022 and 2023 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2023 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 4597, 83363 and 89274 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 4597, 83363 and 89274.
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. Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted at the Newt Young Ditch. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.
9. The use of the remaining water right described by Certificates 4597 and 83363 shall continue to be in accordance with the terms and conditions of Certificates 4597 and 83363.

Dated at Salem, Oregon this JUN 21 2019,



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

Mailing Date: JUN 24 2019