

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-12077, Lane County)	EMERGENCY USE DROUGHT
)	TEMPORARY CHANGE IN
		CHARACTER OF USE, 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

Knife River Corporation
Jeff Steyaert, Environmental, Permitting & Property Manager
32260 Old Highway 34
Tangent, OR 97389

Findings of Fact

1. On June 8, 2015, Knife River Corporation filed an application to temporarily change the character of use, change the place of use, and change the points of diversion under Certificates 26870 and 26871 for the remainder of the 2015 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-12077.
2. Notice of the application for transfer was published on June 16, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 25, 2015, the Department notified the applicant of deficiencies in the application. The applicant provided sufficient information to resolve the deficiencies on June 25, 2015.

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.

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

Certificate: 26870 in the name of A. W. BARTEL (perfected under Permit S-24244)
Use: IRRIGATION of 4.5 ACRES
Priority Date: MAY 24, 1956
Rate: 0.06 CUBIC FOOT PER SECOND (CFS)
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-EIGHTIETH 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: COAST FORK WILLAMETTE RIVER, tributary to WILLAMETTE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC
19 S	3 W	WM	24	NW NE	48
19 S	3 W	WM	24	SW NE	48

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
19 S	3 W	WM	13	SE SE	47	0.10
19 S	3 W	WM	13	SW SE	48	1.80
19 S	3 W	WM	24	NW NE	48	2.60

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

Certificate: 26871 in the name of A. W. BARTEL (perfected under Permit S-24245)
Use: IRRIGATION of 17.9 ACRES
Priority Date: MAY 24, 1956
Rate: 0.22 CFS
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-EIGHTIETH 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: COAST FORK WILLAMETTE RIVER, tributary to the WILLAMETTE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC
19 S	3 W	WM	24	NW NE	48
19 S	3 W	WM	24	SW NE	48

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
19 S	3 W	WM	24	NE NE	47	9.3
19 S	3 W	WM	24	NW NE	47	8.6

6. The certificates do not describe the measured distances of the points of diversion, however information is available from the applicant indicating that the points of diversion are the same for both certificates and located as follows:

POD #	Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1	19 S	3 W	WM	24	SE NW	48	1780 FEET SOUTH AND 2680 FEET WEST FROM THE NE CORNER OF SECTION 24
2	19 S	3 W	WM	24	NW NE	48	110 FEET SOUTH AND 2510 FEET WEST FROM THE NE CORNER OF SECTION 24

7. Transfer Application T-12077 proposes to temporarily move the authorized points of diversion for both rights downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances	Approximate Distance (river miles)
17 S	3 W	WM	7	SW SW	4	740 FEET NORTH AND 760 FEET EAST FROM THE SW CORNER OF SECTION 7	POD 1: 164.89 POD 2: 165.22

8. Transfer Application T-12077 proposes to temporarily change the place of use of both rights to:

INDUSTRIAL/MANUFACTURING					
Twp	Rng	Mer	Sec	Q-Q	DLC
17 S	3 W	WM	7	SW SW	4
17 S	3 W	WM	12	SE SE	
17 S	3 W	WM	13	NE NE	
17 S	3 W	WM	18	NW NW	

9. Temporary Drought Transfer Application T-12077 also proposes to temporarily change the character of use to Industrial/Manufacturing.

Temporary Drought Transfer Review Criteria

10. 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.
11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.

12. The Governor issued an executive order on May 21, 2015, declaring a state of drought emergency in Lane 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.
13. The proposed changes would not result in enlargement of the rights.
14. The proposed change 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 character of use, places of use, and points of diversion proposed in Temporary Drought Transfer Application T-12077 are consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

Now, therefore, it is ORDERED:

1. The temporary change in character of use, places of use, and points of diversion proposed in Temporary Drought Transfer Application T-12077 are approved.
2. The amount of water used for the proposed industrial/commercial use shall be limited to a total of 0.28 cfs and shall not exceed 56.0 af (further limited by certificate), during the irrigation season (March 1 to October 31) or until the end of the Governor’s declared drought, whichever occurs first.

Certificate	Rate (cfs)	Volume (af)
26870	0.060	11.25
26871	0.220	44.75
Total:	0.280	56.00

3. The former places of use **shall not** be irrigated as part of these water rights during the remainder of the 2015 irrigation season or until the end of the Governor’s declared drought, whichever occurs first.
4. The approval of this temporary drought transfer may be revoked or modified if the Department finds that the changes cause injury to any existing water right.
5. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of the Certificates. The use shall revert to the authorized places of use at the end of the 2015 irrigation season.
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 character of use, place of use, and points of diversion shall revert to the authorized character of use, place of use, and points of diversion at the end of the 2015 irrigation season or the end of the Governor's declared drought, whichever occurs first.

8. The use of the remaining water rights described by Certificate 26870 and 26871 shall continue to be in accordance with the terms and conditions of Certificate 26870 and 26871.

Dated at Salem, Oregon this 30 day of June 2015.



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

Mailing Date: JUL 01 2015