

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-12877, Klamath County)	EMERGENCY USE DROUGHT
)	TEMPORARY CHANGE IN PLACE OF
)	USE AND CHANGE IN POINT OF
)	APPROPRIATION

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

MOSS RANCH, LLC
8555 W. LANGELL VALLEY RD
BONANZA, OR 97623

Findings of Fact

1. On March 26, 2018, MOSS RANCH, LLC filed an application to temporarily change the place of use under Certificate 65412 for the remainder of the 2018 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-12877.
2. Notice of the application for transfer was published on April 3, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 29, 2018, the Department contacted Moss Ranch, LLC by written correspondence to notify the applicant of the deficiencies in the application. The Department requested that the deficiencies be resolved by April 30, 2018.
4. On May 9, 2018, the applicant's agent submitted an Evidence of Use affidavit with supporting documentation.
5. On May 17, 2018, the applicant submitted a revised application, requesting to include a change in point of appropriation.

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.

6. On May 29, 2018, the Department's Groundwater Section conducted a review of the new point of appropriation. The Groundwater Section determined as long as the new well is constructed to a similar depth as the authorized well and not substantially deeper, the new point of appropriation will produce water from the same aquifer zones. A recommendation was made for the new well to not be completed beyond 500 feet below land surface without prior approval from the Department's Groundwater Section.
7. The portion of the right to be temporarily transferred is as follows:

Certificate: 65412 in the name of INDIAN HILLS RANCH (perfected under Permit G-7654)
Use: IRRIGATION OF 31.0 ACRES
Priority Date: JUNE 9, 1977
Rate: 0.39 CUBIC FOOT PER SECOND
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 3 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: WELL 1 in the LOST RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	12 E	WM	31	SE NE	WELL 1 - 30 FEET NORTH AND 100 FEET WEST FROM THE EAST 1/4 CORNER OF SECTION 31

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	12 E	WM	31	NE NE	6.7
39 S	12 E	WM	31	NE NW	24.3
Total					31.0

8. Temporary Transfer Application T-12877 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	11 E	WM	25	SW SW	31.0

A change in point of appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12877 also proposes to move the authorized point of appropriation approximately 58.0 feet north to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	12 E	WM	31	SE NE	WELL 2 - 88 FEET NORTH AND 100 FEET WEST FROM THE E1/4 CORNER OF SECTION 31

Temporary Drought Transfer Review Criteria

9. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
10. A pump and wheel line sufficient to use the full amount of water allowed under the existing right is present.
11. The Governor issued an executive order on March 13, 2018, 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.
12. The proposed change would not result in enlargement of the rights.
13. 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 place of use and point of appropriation proposed in Temporary Drought Transfer Application T-12877 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 and point of appropriation proposed in Temporary Drought Transfer Application T-12877 is approved.
2. The new proposed point of appropriation shall not be completed beyond 500 feet below land surface without approval from the Department's Groundwater Section.
3. The former place of use **shall not** be irrigated as part of this water right during the remainder of the 2018 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 the change causes 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 Certificate 65412. The use shall revert to the authorized place of use at the end of the 2018 irrigation season.

6. The use of the remaining water right described by Certificate 65412 shall continue to be in accordance with the terms and conditions of Certificate 65412.

Dated at Salem, Oregon this JUN 05 2018.



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

Mailing Date: JUN 06 2018