

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

In the Matter of Transfer Application            )           FINAL ORDER APPROVING  
T-13845, Polk County                            )           A TEMPORARY CHANGE IN PLACE OF USE

**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**

DITCHEN LAND COMPANY LLC  
7385 HOWELL PRAIRIE RD NE  
SILVERTON, OR 97381

**Findings of Fact**

1. On October 14, 2021, DITCHEN LAND COMPANY LLC filed an application to temporarily change the place of use under Certificates 9480 and 33876 for a period of 1 year. The Department assigned the application number T-13845.
2. Notice of the application for transfer was published on October 26, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 29, 2021, the Department contacted the agent for the applicant by email regarding a deficiency found on Page 11 of the application, specifically a misidentified Quarter-Quarter in Section 33. A deadline of December 29, 2021 was set for receipt of an amended application page.
4. On December 6, 2021, the agent for the applicant provided the Department a revised Application Page 11 by email, satisfying the deficiency.

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.

5. The first right to be temporarily transferred is as follows:

**Certificate:** 9480 in the name of DANE J PURVINE (perfected under Permit S-7648)  
**Use:** IRRIGATION of 65.0 ACRES  
**Priority Date:** JULY 28, 1926  
**Rate:** 0.82 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 in case of rotation.  
**Source:** LUCKIAMUTE RIVER a tributary of WILLAMETTE RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q
9 S	4 W	WM	33	NE NE
9 S	4 W	WM	34	NE SW

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	4 W	WM	27	NW SW	8.0
9 S	4 W	WM	27	SW SW	18.0
9 S	4 W	WM	28	NE SE	12.0
9 S	4 W	WM	28	SE SE	27.0
Total					65.0

6. Temporary Transfer Application T-13845 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	4 W	WM	33	NE NW	0.1
9 S	4 W	WM	33	NW NW	25.5
9 S	4 W	WM	33	SW NW	34.9
9 S	4 W	WM	33	NW SW	4.5
Total					65.0

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

**Certificate:** 33876 in the name of WARNER AND LINN (a partnership)(perfected under Permit S-27763)  
**Use:** IRRIGATION of 79.9 ACRES  
**Priority Date:** DECEMBER 18, 1961  
**Rate:** 0.175 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** LUCKIAMUTE RIVER a tributary of WILLAMETTE RIVER

**Authorized Points of Diversion**

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
9 S	4 W	WM	33	NE NE	5	68	5470 FEET SOUTH AND 750 FEET EAST FROM THE NW CORNER OF DLC 68
9 S	4 W	WM	33	NE NE		68	5680 FEET SOUTH AND 160 FEET WEST FROM THE NW CORNER OF DLC 68

**Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
9 S	4 W	WM	33	NE NE	5		6.1
9 S	4 W	WM	33	NE NE		49	2.2
9 S	4 W	WM	33	NW NE	6		4.4
9 S	4 W	WM	33	NW NE		49	1.2
9 S	4 W	WM	33	SE NE		49	0.1
Total							14.0

8. Temporary Transfer Application T-13845 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	4 W	WM	33	NW SW	14.0

**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 pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
11. The proposed changes would not prevent the lands from which the water rights are 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 places of use proposed in Temporary Transfer Application T-13845 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

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

1. The temporary changes in places of use proposed in Temporary Transfer Application T-13845 are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the 2021 irrigation season.
3. The use shall revert to the authorized places of use at the end of the 2021 irrigation season.
4. A subsequent application for permanent transfer of Certificates 9408 and 33876 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.
5. The use of water at the temporary places of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 9408 and 33876.
6. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
7. The use of the remaining water right described by Certificate 33876 shall continue to be in accordance with the terms and conditions of Certificate 33876.

Dated in Salem, Oregon on

**FEB 09 2022**



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

*Mailing Date:*

**FEB 10 2022**