

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING TEMPORARY
T-13687, Marion County)	CHANGES IN PLACE OF USE AND POINTS
)	OF APPROPRIATION

Authority

Oregon Revised Statute (ORS) 537.705 and 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 appropriation 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

NELSON KUENZI
10155 SUNNYVIEW RD NE
SALEM, OR 97317

Findings of Fact

1. On May 5, 2021, NELSON KUENZI filed an application to temporarily change the place of use under Certificate 95358, and to change the place of use and points of appropriation to serve the proposed places of use under Certificate 95541 for a period of 5 years. The Department assigned the application number T-13687.
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.
3. The portion of the first right to be transferred is as follows:

Certificate: 95358 in the name of NELSON H. KUENZI and NORTHWEST FARM CREDIT SERVICES, FLCA (perfected under Permit G-17503)
Use: IRRIGATION of 7.4 ACRES
Priority Date: FEBRUARY 6, 2015
Rate: 0.09 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 used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: WELL 2 in PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	1 W	WM	19	NW NE	WELL 2 - 1065 FEET SOUTH AND 1795 FEET WEST FROM THE NE CORNER OF SECTION 19

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	1 W	WM	18	SE SE	0.6
7 S	1 W	WM	19	NE NE	6.8
Total					7.4

4. Temporary Transfer Application T-13687 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	1 W	WM	18	SE SE	7.4

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

Certificate: 95541 in the name of KUENZI BROTHERS FARMS LLC and NORTHWEST FARM CREDIT SERVICES, FCLA (perfected under Permit G-12918)

Use: IRRIGATION of 7.9 ACRES

Priority Date: FEBRUARY 15, 1995

Rate: 0.07 CUBIC FOOT PER SECOND (CFS), BEING 0.01 CFS FROM WELL #1 AND 0.06 CFS FROM WELL #2

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: TWO WELLS in BEAVER CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
7 S	1 W	WM	17	SW SE	7	WELL #1 - 420 FEET NORTH AND 694 FEET EAST FROM THE S1/4 CORNER OF SECTION 17
7 S	1 W	WM	17	SW SE	7	WELL #2 - 432 FEET NORTH AND 702 FEET EAST FROM THE S1/4 CORNER OF SECTION 17

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
7 S	1 W	WM	17	SE SW		1.7
7 S	1 W	WM	17	SW SE	7	1.2
7 S	1 W	WM	20	NE NW		5.0
Total						7.9

6. Temporary Transfer Application T-13687 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	
7 S	1 W	WM	18	SE SE	7.9	

7. A change in point of appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13687 proposes to move the authorized points of appropriation approximately 1.0 mile southwest to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	1 W	WM	19	NW NE	WELL 2 - 1065 FEET SOUTH AND 1795 FEET WEST FROM THE NE CORNER OF SECTION 19

Temporary Transfer Review Criteria

8. 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.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
10. 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).
11. 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 points of appropriation to serve the temporary places of use proposed in Temporary Transfer Application T-13687 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 change in points of appropriation to serve the temporary places of use proposed in Temporary Transfer Application T-13687 are 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 temporary point of appropriation 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 95358 and 95541 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 95358 and 95541.
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 95358 and 95541 shall continue to be in accordance with the terms and conditions of Certificates 95358 and 95541.

Dated in Salem, Oregon on

SEP 02 2021


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

Mailing Date:

SEP 03 2021