

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

In the Matter of Transfer Application)
T-12645, Malheur County)
)
) **FINAL ORDER APPROVING A
TEMPORARY CHANGE IN
PLACE OF USE**

Authority

Oregon Revised Statute (ORS) 540.570 establish the process in which a water right holder may submit a request to temporarily transfer the place of use within an irrigation district 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 385 implements the statutes and provides the Department's procedures and criteria for evaluating district transfer applications.

Applicant

VALE OREGON IRRIGATION DISTRICT
521 A STREET WEST
VALE, OR 97918

Findings of Fact

1. On April 17, 2017, VALE OREGON IRRIGATION DISTRICT filed an application to temporarily change the place of use and under Certificates 74080 and 74081. The Department assigned the application number T-12645.
2. Notice of the application for transfer was published on April 25, 2017, 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: 74080 in the name of U.S. BUREAU OF RECLAMATION and VALE OREGON IRRIGATION DISTRICT; (perfected under Permit R-457)
Use: IRRIGATION of 2.0 ACRES
Priority Date: 1.) 400 CUBIC FEET PER SECOND from MALHEUR RIVER with a priority of May 10, 1926.
2.) (A) 200 CUBIC FEET PER SECOND from MALHEUR RIVER with a priority of January 11, 1927.
(B) One half of the stored water available each year from Warm Springs Reservoir (Permit No. R-457), which is to be released into the Malheur

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.

River and re-diverted therefrom through Vale Oregon Project main canal at a maximum rate of 600 CUBIC FEET 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, is limited to a diversion of 4.5 acre-feet per acre for each acre or the equivalent irrigated during the irrigation season of each year.

Source: MALHEUR RIVER tributary to the SNAKE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	41 E	WM	31	NW SE	VALE PROJECT MAIN CANAL-1200 FEET NORTH AND 300 FEET EAST FROM THE S¼ CORNER OF SECTION 31
23 S	37 E	WM	8	SW SW	WARMSPRINGS DAM

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User	DINN
18 S	44 E	WM	23	SW NE	1400	2.00	Hiatt	27

4. Temporary Transfer Application T-12645 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User	DINN
18 S	44 E	WM	23	NE NE	100	1.10	Hiatt	27
18 S	44 E	WM	23	NW NE	300	0.90	Hiatt	27
Total:						2.00		

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

Certificate: 74081 in the name of Vale Oregon Irrigation District and U.S. Bureau of Reclamation (perfected under Permit S-16707)

Use: Supplemental Irrigation of 2.0 acres

Priority Date: December 16, 1931 for stored water, and November 29, 1945 for direct flow

Rate: 100.0 CUBIC FEET PER SECOND for direct flow and 62,770.000 ACRE-FEET from storage

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

Source: NORTH FORK MALHEUR RIVER, a tributary of MALHEUR RIVER, and BEULAH RESERVOIR (A.K.A. AGENCY VALLEY RESERVOIR, R-671)

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
19 S	37 E	WM	15	SW SE	AGENCY VALLEY DAM
20 S	41 E	WM	31	NW SE	VALE PROJECT MAIN CANAL-1200 FEET NORTH AND 300 FEET EAST FROM THE S¼ CORNER OF SECTION 31

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User	DINN
18 S	44 E	WM	23	SW NE	1400	2.00	Hiatt	27

6. Temporary Transfer Application T-12645 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Water User	DINN
18 S	44 E	WM	23	NE NE	100	0.90	Hiatt	27
18 S	44 E	WM	23	NW NE	300	1.10	Hiatt	27
Total:						2.00		

7. Temporary Transfer Application T-12645 proposes to temporarily transfer a water right served by a Bureau of Reclamation storage project. The Bureau was notified of the proposed temporary transfer and did not provide any comments.

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 540.570(6).
9. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
10. The proposed change would not result in enlargement of the rights.
11. 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 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 change in place of use proposed in application Temporary Transfer Application T-12645 is consistent with the requirements of ORS 540.570 and OAR 690-385-3200.

Now, therefore, it is ORDERED:

1. The temporary change in place of use proposed in Temporary Transfer Application T-12645 is approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2017 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2017 irrigation season.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.

5. A subsequent application for permanent transfer of Certificates 74080 and 74081 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 385. 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 74080 and 74081.
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 74080 and 74081 shall continue to be in accordance with the terms and conditions of Certificates 74080 and 74081.

Dated at Salem, Oregon this 7 day of June, 2017.



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

Mailing Date: JUN 13 2017