

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

In the Matter of Transfer Application                    )  
T-14013, Klamath County                                )  
  )  
  )       FINAL ORDER APPROVING AN  
  )       EMERGENCY USE DROUGHT TEMPORARY  
  )       CHANGE IN PLACE OF USE

**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**

DENISE & GARY KLEGSETH LLC  
PO BOX 252  
MERRILL, OR 97633

**Findings of Fact**

1. On May 25, 2022, DENISE & GARY KLEGSETH LLC filed an application to temporarily change the place of use under Certificate 86504 and Water Use Permit G-12922 for the remainder of the 2022 irrigation season or the term of the Governor’s declared drought, whichever is shorter. The Department assigned the application number T-14013.
2. Notice of the application for transfer was published on June 7, 2022, 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:** 86504 in the name of JOE C. AND MILDRED L. FOTHERINGHAM (perfected under Permit U-353)  
**Use:** IRRIGATION of 33.44 ACRES  
**Priority Date:** JULY 26, 1950  
**Rate:** 0.42 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, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** A WELL, tributary to LOST RIVER

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	10 E	WM	10	NE SE	1720 FEET NORTH AND 575 FEET WEST FROM THE SE CORNER OF SECTION 10

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
41 S	10 E	WM	10	NW SE	33.44

4. Temporary Transfer Application T-14013 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
41 S	10 E	WM	10	SE SE	33.44

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

**Water Use Permit:** G-12922 in the name of JOE C. AND MILDRED L. FOTHERINGHAM

**Use:** IRRIGATION of 3.27 ACRES

**Priority Date:** FEBRUARY 1, 1995

**Rate:** 0.04 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** A WELL in the LOST RIVER BASIN

**Period of Use:** MARCH 1 THROUGH OCTOBER 31

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	10 E	WM	10	NE SE	1720 FEET NORTH AND 575 FEET WEST FROM THE SE CORNER OF SECTION 10



**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
41 S	10 E	WM	10	NW SE	3.27

6. Temporary Transfer Application T-14013 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
41 S	10 E	WM	10	SE SE	3.27

**Temporary Drought Transfer Review Criteria**

7. 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.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
9. The Governor issued an executive order on February 22, 2022, 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.
10. The proposed changes would not result in enlargement of the rights.
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 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 changes in places of use, proposed in Temporary Drought Transfer Application T-14013 are consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

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

1. The temporary change in places of use, proposed in Temporary Drought Transfer Application T-14013 are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the remainder of the 2022 irrigation season or until the end of the Governor's declared drought, whichever occurs first.

3. Water use measurement conditions:
  - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.
  - b. The water user shall maintain the meters or measuring devices in good working order.
  - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
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 places of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 86504 and Permit G-12922. The use shall revert to the authorized place of use at the end of the 2022 irrigation season.
6. The proposed change in places of use shall revert to the authorized places of use at the end of the 2022 irrigation season or the end of the Governor's declared drought, whichever occurs first.
7. The use of the remaining water rights described by Certificate 86504 and Permit G-12922 shall continue to be in accordance with the terms and conditions of Certificate 86504 and Permit G-12922.

Dated in Salem, Oregon on **AUG 04 2022**

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

Mailing Date: **AUG 04 2022**