

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

In the Matter of Transfer Application)
 T-9926, Umatilla County, Oregon)
) FINAL ORDER APPROVING AN
) EMERGENCY USE DROUGHT
) TEMPORARY CHANGE IN PLACE OF
) USE

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 without complying with the notice and waiting requirements under ORS 540.520. OAR Chapter 690, Division 019 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

Norma Quick
 78614 Quick Road
 Hermiston, Oregon 97838

Findings of Fact

1. Norma Quick filed an application to temporarily transfer the place of use under Certificates 76717, 79439 and 76799 for a period of one year or the term of the Governor’s declared drought, whichever is shorter. The Department assigned the application number T-9923.

2. The portion of the first right to be transferred is as follows:

Certificate: 76717 in the name of Westland Irrigation District
Use: Irrigation of 9.0 acres
Priority Date: July 1907
Quantity: 0.11 cubic foot per second (cfs)
Rate/Duty: 1/80 cfs per acre from March 1 to November 1 and subject to the limitations of paragraph 32 of the Umatilla River Decree
Source: Umatilla River, tributary to the Columbia River
Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Location
3	N	29	E	W.M.	21	SW NE	North 76° 45 Min 56 Sec East 2913.19 Feet from W¼ Corner, Section 21

This is a final order in other than 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 either 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.

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres
4	N	28	E	W.M.	17	SE NE	3600	3.3
4	N	28	E	W.M.	17	SW NE	3700	0.2
4	N	28	E	W.M.	17	SW NE	3700	0.6
4	N	28	E	W.M.	17	NE SE	100	3.3
4	N	28	E	W.M.	17	NW SE	200	1.6

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

Certificate: 79439 in the name of the US Bureau of Reclamation

Use: Supplemental Irrigation of 9.0 acres

Priority Date: July 1, 1924

Quantity: 0.11 cfs

Rate/Duty: 1/80 cfs or its equivalent, provided further that the right allowed herein for supplemental irrigation shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed therein

Source: McKay Reservoir, tributary to McKay Creek (and re-diverted at Westland Irrigation District Canal)

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Location
2	N	32	E	W.M.	34	NW SE	McKay Reservoir – NW¼ SE¼, Section 34
3	N	29	E	W.M.	21	SW NE	Umatilla River - North 76° 45 Min 56 Sec East 2913.19 Feet from W¼ Corner, Section 21

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres
4	N	28	E	W.M.	17	SE NE	3600	3.3
4	N	28	E	W.M.	17	SW NE	3700	0.2
4	N	28	E	W.M.	17	SW NE	3700	0.6
4	N	28	E	W.M.	17	NE SE	100	3.3
4	N	28	E	W.M.	17	NW SE	200	1.6

4. Application T-9926 proposes to change the place of use for both Certificates 76717 and 79439 to:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres
4	N	28	E	W.M.	17	SW NE	3700	9.0

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

Certificate: 76799 in the name of Westland Irrigation District
Use: Irrigation of 2.9 acres
Priority Date: April 12, 1961
Quantity: 0.0.07 cfs
Rate/Duty: 1/40 cfs per acre from direct flow, and 4½ acre-feet for each acre irrigated during the irrigation season from direct flow and storage.
Source: Umatilla River and McKay Reservoir, tributary to the Columbia River
Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼		Location
2	N	32	E	W.M.	34	NW	SE	McKay Reservoir – NW¼ SE¼, Section 34
3	N	29	E	W.M.	21	SW	NE	Umatilla River - North 76° 45 Min 56 Sec East 2913.19 Feet from W¼ Corner, Section 21

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Lot	Acres
4	N	28	E	W.M.	17	SW	NE	3700	1.2
4	N	28	E	W.M.	17	NW	SE	200	1.7

6. Application T-9926 proposes to change the place of use of Certificate 76799 to:

Township		Range		Meridian	Sec	¼ ¼		Lot	Acres
4	N	28	E	W.M.	17	SW	NE	3700	2.9

7. Notice of the application for temporary transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
8. Application T-9926 proposes to temporarily transfer water rights within the boundaries of Westland Irrigation District. The district was notified of the proposed temporary transfer and indicated that the district did not object to the transfer.
9. Application T-9926 proposes to temporarily transfer water rights served by a Bureau of Reclamation storage project. The Bureau was notified of the proposed temporary transfer and did not provide any comments.
10. Water has been used within the last five years according to the terms and conditions of the right and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
12. The proposed change would not result in enlargement of the right.

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 ORS 540.523(6) 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 T-9926 is consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

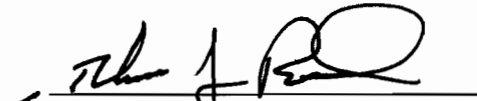
Now, therefore, it is ORDERED:

1. The change in place of use proposed in application T-9923 is approved.
2. The proposed place of use shall revert to the authorized place of use at the end of the 2005 irrigation season or the end of the Governor's declared drought, whichever occurs first.
3. Upon approval of this transfer, the authorized places of user (FROM lands) **shall not** receive any water under the water rights involved with this transfer during the 2005 irrigation season.
4. The portions of the right evidenced by Certificate 55323 appurtenant to the authorized place of use (FROM lands) **shall not** be used during the 2005 irrigation season.
5. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
6. Issuance of this temporary drought transfer order may not protect the person receiving the transfer from liability for improper use of the water under the transfer
7. A subsequent application for permanent transfer of Certificates 76717, 79439 and 76799 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.
8. 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 76717, 79439 and 76799.
9. The use of water authorized under this order is subject to compliance with the terms and conditions of a water service contract or other agreement with the Bureau of Reclamation or any other entity responsible for the release and delivery of water to the right.
10. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
11. When required by the Department, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. The type and plans

of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

12. The use of the remaining water right described by Certificates 76717, 79439 and 76799 shall continue to be in accordance with the terms and conditions of Certificates 76717, 79439 and 76799.

Dated at Salem, Oregon this 13th day of June, 2005.


Phillip C. Ward, Director

Mailing date: JUN 16 2005