

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

In the Matter of Transfer Application)	RECONSIDERATION OF A FINAL ORDER
T-13987, Klamath County)	RECORDED IN SPECIAL ORDER VOLUME
)	125, PAGES 238-243, WITHDRAWING THE
)	FINAL ORDER AND ISSUING A
)	SUPERSEDING FINAL ORDER APPROVING
)	EMERGENCY TEMPORARY CHANGES IN
)	PLACES OF USE AND POINTS OF
)	APPROPRIATION

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

ROBERT L UNRUH
30083 PICKETT RD
MALIN, OR 97632

Findings of Fact

1. On April 21, 2022, ROBERT L UNRUH filed an application to temporarily change the places of use and change the points of appropriation under Certificate 27103, 74458, and Permit G-12450 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-13987.
2. Notice of the application for transfer was published on May 3, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 9, 2022, the Department approved Drought Temporary Transfer Application T-13987, as evidenced in Special Order Volume 125, Pages 238-243.

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.

4. On July 15, 2022, the Department sent a Reconsideration Letter because the Final Order was issued prior to the Department's Groundwater review being completed.
5. On July 22, 2022, the Department completed the Groundwater Review and found the change in point of appropriation was from the same source and that there was no finding of injury. The Department is withdrawing approval of Special Order Volume 125, Pages 238-243, and issuing this superseding final order.
6. The portion of the first right to be temporarily transferred is as follows:

Certificate: 27103 in the name of ALICE PEREIRA (perfected under Permit G-255)
Use: IRRIGATION of 10.0 ACRES
Priority Date: MAY 28, 1956
Rate: 0.12 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, 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 3 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: PEREIRA WELL, a tributary of TULELAKE SUMP

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	12 E	WM	28	SW SW	PEREIRA WELL (WELL 4) - 3 CHAINS NORTH AND 15.75 CHAINS EAST OF THE SW CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	12 E	WM	28	SW NW	10.0

7. Temporary Transfer Application T-13987 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	12 E	WM	33	NW NE	10.0

8. Additional points of appropriation are necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13987 proposes additional points of appropriation with approximate distances from authorized point as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from Authorized Well in Miles (mi.)
40 S	12 E	WM	28	SW SW	POA 6 – 281.6 FEET NORTH AND 632.2 FEET WEST FROM THE SW 1/4 OF SECTION 28	0.1 mi.

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from Authorized Well in Miles (mi.)
40 S	12 E	WM	28	SE SW	POA 7 – 191.7 FEET NORTH AND 221.4 FEET WEST FROM THE SW 1/4 OF SECTION 28	0.1 mi.
41 S	12 E	WM	6	NW NW	POA 5 – 1300 FEET SOUTH AND 800 FEET EAST FROM THE NW CORNER OF THE NE NE OF SECTION 16)	2.3 mi.

9. The second right to be temporarily transferred is as follows:

Certificate: 74458 in the name of DONALD A. RAJNUS (perfected under Permit G-11664)

Use: IRRIGATION of 133.07 ACRES

Priority Date: MARCH 6, 1992

Rate: 1.66 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 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 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

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	11 E	WM	25	SE NE	2086 FEET SOUTH AND 134 FEET WEST FROM THE NE CORNER OF SECTION 25

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	11 E	WM	24	NE SW	12.29
40 S	11 E	WM	24	NW SW	7.19
40 S	11 E	WM	24	SW SW	0.48
40 S	11 E	WM	24	SE SW	33.61
40 S	11 E	WM	24	SW SE	7.50
40 S	11 E	WM	25	NW NE	26.24
40 S	11 E	WM	25	SW NE	4.53
40 S	11 E	WM	25	NE NW	23.41
40 S	11 E	WM	25	SE NW	0.69
40 S	11 E	WM	25	SE SE	0.87
40 S	11 E	WM	36	NE NE	16.26
				Total	133.07

10. Temporary Transfer Application T-13987 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
41 S	12 E	WM	6	NE NW	15.07
41 S	12 E	WM	6	NW NE	25.00
41 S	12 E	WM	31	SW SW	28.00
41 S	12 E	WM	33	NE SW	40.00
41 S	12 E	WM	33	NW SW	20.00
41 S	12 E	WM	33	SE SE	5.00
				Total	133.07

11. Temporary Transfer Application T-13987 proposes to move the authorized points of appropriation with approximate distances as described below:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates	Distance from Authorized Well in Miles (mi.)
40 S	12 E	WM	28	SW SW	POA 4 -194.5 FEET NORTH AND 268.2 FEET WEST FROM THE S1/4 OF SECTION 28	2.1 mi.
40 S	12 E	WM	33	NE NW	POA 3 - 29 FEET SOUTH AND 708.3 FEET WEST FROM THE SE 1/4 1/4 OF SECTION 28	2.2 mi
41 S	12 E	WM	6	NW NW	POA 5 - 1300 FEET SOUTH AND 800 FEET EAST FROM THE NW CORNER OF THE NE NE OF SECTION 16	1.1 mi.

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

Permit: G-12450 in the name of NORTHWEST FARM CREDIT SERVICES, FLCA and NORTHWEST FARM CREDIT SERVICES, PCA and R AND C AG, LLC (authorized under Application G-12860)

Use: IRRIGATION OF 16.0 ACRES

Priority Date: APRIL 6, 1992

Rate: 0.2 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 land, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

Period of Use: APRIL 15 THROUGH OCTOBER 15

Source: TWO WELLS in the LOST RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	12 E	WM	28	SW SW	WELL #1 - 200 FEET NORTH AND 1040 FEET EAST FROM THE SW CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	12 E	WM	28	SW NW	10.0
40 S	12 E	WM	28	SW SW	6.0
				Total	16.0

13. Temporary Transfer Application T-13987 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	12 E	WM	33	NW NE	16.0

14. Additional points of appropriation are necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13987 proposes additional points of appropriation with approximate distances from authorized point as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from Authorized Well in Miles (mi.)
40 S	12 E	WM	28	SW SW	POA 6 – 281.6 FEET NORTH AND 632.2 FEET WEST FROM THE SW 1/4 OF SECTION 28	0.1 mi.
40 S	12 E	WM	28	SE SW	POA 7 – 191.7 FEET NORTH AND 221.4 FEET WEST FROM THE SW 1/4 OF SECTION 28	0.1 mi.
41 S	12 E	WM	6	NW NW	POA 5 – 1300 FEET SOUTH AND 800 FEET EAST FROM THE NW CORNER OF THE NE NE OF SECTION 16	2.3 mi.

Temporary Drought Transfer Review Criteria

15. 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.
16. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
17. The Governor issued an executive order on March 4, 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.
18. The proposed changes would not result in enlargement of the rights.

19. 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 change in places of use and points of appropriation proposed in Temporary Drought Transfer Application T-13987 are consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

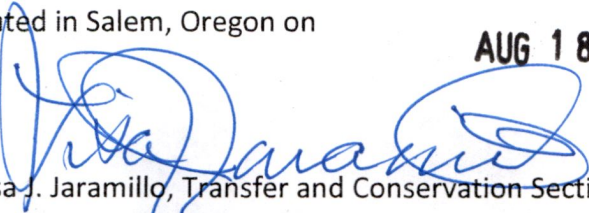
Now, therefore, it is ORDERED:

1. The order recorded at Special Order Volume 125, Pages 238-243 is withdrawn, is of no further force or effect, and is superseded by this order.
2. The temporary change in in places of use and points of appropriation proposed in Temporary Drought Transfer Application T-13987 are approved.
3. 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.
4. The approval of this temporary drought transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. The quantity of water diverted at the proposed temporary points of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.
6. 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 27103, 74458, and Permit G-12450. The use shall revert to the authorized place of use at the end of the 2022 irrigation season.
7. The proposed change in places of use and points of appropriation shall revert to the authorized places of use and points of appropriation at the end of the 2022 irrigation season or the end of the Governor's declared drought, whichever occurs first.

8. The use of the remaining water rights described by Certificate 27103, 74458, and Permit G-12450 shall continue to be in accordance with the terms and conditions of Certificate 27103, 74458, and Permit G-12450.

Dated in Salem, Oregon on

AUG 18 2022



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

Mailing Date:

AUG 18 2022