

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

In the Matter of Transfer Application)	FINAL ORDER DENYING AN
T-12942, Klamath County)	EMERGENCY USE DROUGHT
)	TEMPORARY CHANGE IN PLACE OF
)	USE AND CHANGE IN POINT 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

HAGERTY LAND CO. LLC
CLAUDE HAGERTY
28605 TRANSFORMER ROAD
MALIN, OR 97632

Findings of Fact

1. On June 4, 2018, HAGERTY LAND CO. LLC, CLAUDE HAGERTY, filed an application to temporarily change the place of use and change the point of appropriation to serve the proposed place of use for certificate 57079 for the remainder of the 2018 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-12942.
2. Notice of the application for transfer was published on June 12, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 9, 2018, the Department contacted the applicant by written correspondence to notify the applicant of the deficiencies in the application. The Department requested that the deficiencies be resolved by September 9, 2018. No response was received to the letter.

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

Permit: G -15405 in the name of JO ANN WOLLNHORST-RUSS, RUDOLPH PAYGR
Use: SUPPLEMENTAL IRRIGATION OF 62.7 ACRES
Priority Date: MAY 10, 2001
Rate: 0.78 CUBIC FEET PER SECOND
Limit/Duty: The amount of water used for irrigation under this right 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Period of Use: APRIL 1 THROUGH SEPTEMBER 30
Source: A WELL within the LOST RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	11 E	WM	36	NE SE	1400 FEET NORTH AND 200 FEET WEST FROM THE SE CORNER OF SECTION 36

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	11 E	WM	36	NE SE	37.9
40 S	11 E	WM	36	NW SE	24.8
Total					62.7

5. Temporary Transfer Application T-12942 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	12 E	WM	5	NE NW	2.7
40 S	12 E	WM	5	NE NW	30.0
40 S	12 E	WM	5	NW NE	30.0
Total					62.7

6. A change in point of appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12942 proposes to move the authorized point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	12 E	WM	5	SW SW	NO INFORMATION PROVIDED

Temporary Drought Transfer Review Criteria

7. Evidence has not been submitted that the water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. The Governor issued an executive order on March 13, 2018, 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.

9. The proposed changes would not result in enlargement of the rights.
10. 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.
11. No information was submitted to show that the applicant is authorized to make the changes proposed in Temporary Drought Transfer Application T-12942.

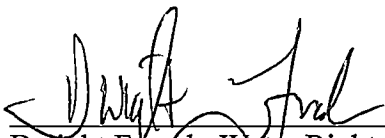
Conclusions of Law

The temporary change in place of use and point of appropriation proposed in Temporary Drought Transfer Application T-12942 are not consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

Now, therefore, it is ORDERED:

1. The temporary change in place of use and point of appropriation to serve the proposed place of use proposed in Temporary Drought Transfer Application T-12942 are denied.

Dated at Salem, Oregon this OCT 10 2018



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

Mailing Date: OCT 11 2018