

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-12193, Lane County)	TEMPORARY CHANGE IN PLACE OF
)	USE, AND ADDITIONAL POINT OF
)	DIVERSION

Authority

Oregon Revised Statute (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use 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 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

MUDDY CREEKS IRRIGATION DISTRICT
PO BOX 225
HARRISBURG, OR 97446

Findings of Fact

1. On November 5, 2015, MUDDY CREEKS IRRIGATION DISTRICT filed an application to temporarily change the place of use and add a point of diversion to serve the proposed place of use under Certificate 86338 for a period of 5 years. The Department assigned the application number T-12193.
2. Notice of the application for transfer was published on November 10, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the right to be temporarily transferred is as follows:

Certificate: 86338 in the name of MUDDY CREEKS IRRIGATION PROJECT
(perfected under Permit S-17510)

Use: IRRIGATION of 5.5 ACRES

Priority Date: FEBRUARY 9, 1939

Rate: 0.068 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

<p>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.</p>

exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: MCKENZIE RIVER, tributary of the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
17 S	3 W	WM	9	NE NE	38	MCKENZIE RIVER – 4440 FEET SOUTH AND 5250 FEET EAST FROM THE SE CORNER OF MANSFIELD DLC 79

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
16 S	3 W	WM	29	NW NE	58	5.5

4. Certificate 86338 describes the location of the point of diversion for these acres, however information is available from the applicant and agent indicating that the re-diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
17 S	3 W	WM	29	NW NE	58	360 FEET EAST AND 910 FEET SOUTH FROM THE NW CORNER OF DLC 58

5. Temporary Transfer Application T-12193 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
16 S	3 W	WM	29	NE SE	42	5.5

6. An additional point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12193 proposes the additional point of diversion approximately 0.6 mile upstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
16 S	3 W	WM	29	NE SE	58	420 FEET NORTH AND 740 FEET EAST FROM THE SW CORNER OF DLC 42

7. Temporary Transfer Application T-12193 proposes to temporarily transfer a water right within the boundaries of Muddy Creek Irrigation District. The district is the applicant of the proposed temporary transfer and does not object to the transfer.

Temporary Transfer Review Criteria

8. 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.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
10. The proposed changes would not result in enlargement of the right.

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 ORS 540.523(5) if the Department later finds that the transfer is causing injury to any existing water right.

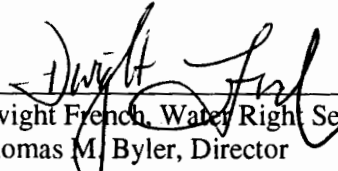
Conclusions of Law

The temporary change in place of use and additional point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12193 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary change in place of use and additional point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-12193 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2016, 2017, 2018, 2019 and 2020 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2020 irrigation season. The authorization to use the additional point of diversion shall be terminated concurrently.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. A subsequent application for permanent transfer of Certificate 86338 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.
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 Certificate 86338.
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 right described by Certificate 86338 shall continue to be in accordance with the terms and conditions of Certificate 86338.

Dated at Salem, Oregon this 29 day of June, 2016.


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

JUL 01 2016

Mailing Date: _____