

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING AN
T-13790, Grant County	)	EMERGENCY USE DROUGHT TEMPORARY
	)	CHANGE IN CHARACTER OF USE AND
	)	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**

CITY OF PRAIRIE CITY  
133 SOUTH BRIDGE STREET  
PRAIRIE CITY, OR 97869

**Findings of Fact**

1. On August 10, 2021, CITY OF PRAIRIE CITY filed an application to temporarily change the character of use and change the place of use under Certificate 82329 for the remainder of the 2021 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-13790.
2. Notice of the application for transfer was published on August 24, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 25, 2021, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of a deficiency in the application. The application did not include an Evidence of Use Affidavit and supporting documentation, as is required by OAR 690-380-3000(12). The Department requested that the deficiencies be resolved by September 27, 2021.

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 September 10, 2021, the applicant submitted an Evidence of Use Affidavit and supporting documentation, resolving the deficiency.
5. The right to be temporarily transferred is as follows:

**Certificate:** 82329 in the name of CO-GEN COMPANY (perfected under Permit G-10752)

**Use:** INDUSTRIAL USES TO INCLUDE OPERATION OF CO-GENERATION PLANT, BOILER AND COOLING WATER

**Priority Date:** MARCH 19, 1987

**Rate:** 120 GALLONS PER MINUTE

**Limit/Duty:** The use of water shall be limited to any deficiency in the available supply from the John Day River allowed under Permit 49760 or to periods of emergency or when flows in the John Day River are turbid, and shall be further limited to appropriation of water only to the extent that it does not impair or substantially interfere with existing surface water rights of others.

**Source:** A WELL in the JOHN DAY BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	33 E	WM	10	NE NE	1000 FEET SOUTH AND 1040 FEET WEST FROM THE NE CORNER OF SECTION 10

**Authorized Place of Use:**

INDUSTRIAL USES TO INCLUDE OPERATION OF CO-GENERATION PLANT, BOILER AND COOLING WATER				
Twp	Rng	Mer	Sec	Q-Q
13 S	33 E	WM	10	NE NE

6. Temporary Transfer Application T-13790 proposes to temporarily change the place of use of the right to:

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
13 S	33 E	WM	2	SW NE
13 S	33 E	WM	2	SW NW
13 S	33 E	WM	2	SE NW
13 S	33 E	WM	2	NE SW
13 S	33 E	WM	2	NW SW
13 S	33 E	WM	2	SW SW
13 S	33 E	WM	2	SE SW
13 S	33 E	WM	2	NW SE
13 S	33 E	WM	2	SW SE
13 S	33 E	WM	11	NW NE
13 S	33 E	WM	11	SW NE
13 S	33 E	WM	11	NE NW
13 S	33 E	WM	11	NW NW
13 S	33 E	WM	11	SW NW

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
13 S	33 E	WM	11	SE NW
13 S	33 E	WM	11	NE SW
13 S	33 E	WM	11	NW SW
13 S	33 E	WM	11	NW SE
13 S	33 E	WM	11	SW SE

7. Temporary Drought Transfer Application T-13790 proposes to change the character of use to Municipal Uses.

**Temporary Drought 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 and water distribution system sufficient to use the full amount of water allowed under the existing right is present.
10. The Governor issued an executive order on June 29, 2021, declaring a state of drought emergency in Grant 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.
11. The proposed changes would not result in enlargement of the rights.
12. 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**

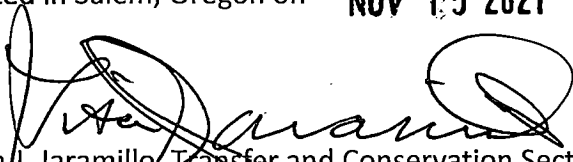
The temporary change in character of use and place of use proposed in Temporary Drought Transfer Application T-13790 is consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

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

1. The temporary change in character of use and place of use proposed in Temporary Drought Transfer Application T-13790 is approved.
2. The former places of use **shall not** receive water as part of this water right during the remainder of 2021 or until the end of the Governor’s declared drought, whichever occurs first.

3. 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.
4. 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 82329. The use shall revert to the authorized place of use at the end of the 2021 season or the end of the Governor's declared drought, whichever occurs first..
5. The proposed change in character of use and place of use shall revert to the authorized character of use and place of use at the end of the 2021 irrigation season or the end of the Governor's declared drought, whichever occurs first.

Dated in Salem, Oregon on **NOV 15 2021**



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

*Mailing Date:* **NOV 16 2021**