# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-13723, Umatilla County	. )	A TEMPORARY CHANGE
	)	IN PLACE OF USE

# 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**

DAVID CORREA 31777 ANDREWS RD ECHO, OR 97826

### **Findings of Fact**

- On May 26, 2021, DAVID CORREA filed an application to temporarily change the place of use under The Umatilla River Decree Vol. 3 Page 127, for a period of 1 year. The Department assigned the application number T-13723.
- 2. Notice of the application for transfer was published on June 15, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. The portion of the first right to be temporarily transferred is as follows:

**Decree:** Water rights Evidenced by Umatilla River Decree, (Vol. 3, Page 239/Elmer

Reeves) Vol. 3, Page 239/ Geo. L. Ward) (vol. 3, Page 239/ B.F. McCullough, J.A. Mendenhall) and Vol. 15, Page 432/ Frank Correa Sr.) the portions

identified as in the name of Pioneer Irrigation Company

Use: IRRIGATION of 49.0 ACRES

Priority Date: JANUARY 9, 1900

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.

Limit/Duty: (subject to the provisions of the Umatilla River Decree Vol. 3, Page 127,

Paragraph 33)

Period of Use: Usually March 1 to November 1

Source: UMATILLA RIVER, TRIBUTARY TO THE COLUMBIA RIVER

### **Authorized Place of Use:**

IRRIGATION – Vol. 3, Page 239 (Reeves)									
Twp Rng Mer Sec Q-Q Acres									
4 N	4 N 29 E WM 31 SW SE 7.0								

	IRRIGATION – Vol. 3, Page 240 (Ward)							
Twp	Twp Rng Mer Sec Q-Q Acres							
4 N	29 E	WM	31	NE SW	2.5			
4 N	29 E	WM	31	SE SW	6.0			
	<u> </u>			Total	8.5			

IRRIGATION – Vol. 3, Page 239 (McCullough)									
·	Vol. 15, Page 432 (Frank Correa Sr.)								
Twp	Twp Rng Mer Sec Q-Q Acres								
3 N 29 E WM 8 NE SW 8.0									
3 N 29 E WM 8 SE SW 10.0									
3 N 29 E WM 8 NW SE 12.0									
3 N 29 E WM 8 SW SE 3.5									
	Total								

4. The uses tabulated above in Volume 3, Pages 239 and 240, and Volume 15, Pages 432 of the Umatilla River Decree identify the Pioneer Ditch delivery system, but do not describe the location of the point of diversion from the Umatilla River through the Westland Irrigation canal at G#2 (the Pioneer/Courtney head gate). Information is available indicating that the point of diversion on the Umatilla River is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2.11	20.5	\A/N 4	71	21   SW/NE	WESTLAND CANAL- NORTH 76 45" 56"EAST, 2913.19
3 N	29 E	WM	21		SW NE

5. Temporary Transfer Application T-13723 proposes to temporarily change the place of use of the right to:

	IRRIGATION							
Twp Rng Mer Sec Q-Q Acr								
3 N	28 E	WM	12	NE SE	19.0			
3 N	28 E	WM	12	SE SE	30.0			
				Total	49.0			

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

Decree: Water rights Evidenced by Umatilla River Decree, (Vol. 3, Page 195, the

portion identified as in the name of Allen ditch Company (Fred Andrews)

Use:

**IRRIGATION of 11.0 ACRES** 

**Priority Date: 1870** 

Limit/Duty:

(subject to the provisions of the Umatilla River Decree Vol. 3, Page 127,

Source:

UMATILLA RIVER, TRIBUTARY TO THE COLUMBIA RIVER

#### Authorized Place of Use:

	IRRIGATION							
Twp Rng Mer Sec Q-Q Acre								
3 N 29 E WM 7 NE SE .!								
3 N	29 E	WM	·7	SE SE	5.5			
	Total 11.0							
	Total 33.5							

7. The uses tabulated above in Volume 3, Pages 239 and 240, and Volume 15, Pages 432 of the Umatilla River Decree identify the Pioneer Ditch delivery system, but do not describe the location of the point of diversion from the Umatilla River through the Westland Irrigation canal at G#2 (the Pioneer/Courtney head gate). Information is available indicating that the point of diversion on the Umatilla River is located as follows:

Twp	Rng	Mer	Sec	Q-Q Measured Distances	
3 N	29 E .	20.5 14/24 2/	21	21 1 SW/NE L	WESTLAND CANAL- NORTH 76 45" 56"EAST, 2913.19
3 14	29 E .	WM	21		FEET FROM THE W1/4 CORNER OF SECTION 21

8. Temporary Transfer Application T-13723 proposes to temporarily change the place of use of the right to:

IRRIGATION							
Twp Rng Mer Sec Q-Q Acre							
3 N 28 E WM 12 NE SE 11.0							

- 9. There are water right permits S-55061, S-55190, S-55192, and S-54633 for primary irrigation that are located on portions of the "TO" lands described in Finding of Facts Nos. 3 and 7. During the term of the Temporary Transfer, water use under these permits will either be already shut off, not allocated any water this season, cannot supply enough water, have not been activated by mitigation, or no intended water to be used for these acres and thus shall not be exercised.
- 10. The applicant has also identified Water Right Certificate 31294 and Water Right Permit S-7400 as supplemental irrigation that will not be exercised on the "FROM LANDS" during the term of this temporary transfer.

- 11. Temporary Transfer Application T-13723 proposes to temporarily transfer a water right within the boundaries of Westland Irrigation District. The District was notified of the propo9sed temporary transfer and indicated that the District did not object to the transfer at the proposed new location.
- 12. The Department interprets the rate and duty under the terms of the decree to be oneeightieth on one cubic foot per second, not to exceed 3.0 acre-feet per acre for each acre irrigated for these lands.

# Temporary Transfer Review Criteria

- 13. 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.
- 14. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right is present.
- 15. The proposed change would prevent the lands from which the water right is removed during the period of the temporary transfer from receiving water under the transferred right, as required by ORS 540.523(7).
- 16. 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(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 proposed in Temporary Transfer Application T-13723 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 proposed in Temporary Transfer Application T-13723 is approved.
- 2. The former place of use **shall not** be irrigated as part of these water rights during the 2021 irrigation season.
- 3. The use shall revert to the authorized place of use at the end of the 2021 irrigation season.
- 4. The approval of this temporary transfer may be revoked or modified if the Department finds the change cause injury to any existing water right.

- 5. A subsequent application for permanent transfer of the Umatilla River Decree Vol. 3 Page 127shall 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 the Umatilla River Decree Vol. 3, Page 127.
- 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 the Umatilla River Decree Vol. 3, Page 127 and shall continue to be in accordance with the terms and conditions of the Umatilla River Decree Vol. 3 Page 127.

Pated in Salem, Oregon on

SEP 2 7 2021

isa/J. Jaramillo, Transfer and Conservation Section Manager, for

THOMAS M BYLER, DIRECTOR

Oregon Water Resources Department

Mailing Date:

SEP 2 8 2021