

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

In the Matter of Transfer Application)	FINAL ORDER DENYING AN EMERGENCY
T-14023, Klamath County)	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

GREGORY DREW HEATON
PO BOX 210
MERRILL, OR 97633

Findings of Fact

1. On May 31, 2022, GREGORY DREW HEATON filed an application to temporarily change the place of use and change the points of appropriation under Permit G-18391 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-14023.
2. Notice of the application for transfer was published on June 14, 2022, pursuant to OAR 690-380-4000.
3. The Department contacted the applicant via phone and email regarding deficiencies in the application, specifically a recorded deed of the subject land proposed for transfer and notarized affidavits of consent from the other permit holder of record for Permit G-18391, authorizing the temporary change. The applicant did not provide the necessary documentation to the Department. Temporary Drought Application T-14023 is denied as incomplete.

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 -18391 in the name of DANIEL CHIN (perfected under Permit G-18391)
Use: SUPPLEMENTAL IRRIGATION of 119.4 ACRES
Priority Date: MARCH 1, 2005
Rate: 1.49 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 and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Period of Use: APRIL 1 THROUGH OCTOBER 31
Source: WELL 1 (KLAM 53043) IN DODDS HOLLOW BASIN; WELL 2 (KLAM 10518) IN LOST RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	10 E	WM	29	SW NW	WELL 2 - 1420 FEET SOUTH AND 20 FEET EAST FROM THE NW CORNER OF SECTION 29
41 S	11 E	WM	7	SW NE	WELL 3 - 1360 FEET SOUTH AND 1860 FEET WEST FROM THE NE CORNER OF SECTION 7

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	11 E	WM	15	NE NW	2	0.6
41 S	11 E	WM	15	NE NW	6	12.8
41 S	11 E	WM	15	NW NW	3	3.9
41 S	11 E	WM	15	NW NW	7	9.4
41 S	11 E	WM	15	SW NW	8	37.2
41 S	11 E	WM	15	SE NW	9	37.7
41 S	11 E	WM	15	NE SW		7.9
41 S	11 E	WM	15	NW SW	15	9.9
					Total	119.4

5. Temporary Drought Transfer Application T-14023 proposes to temporarily change the point of Appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	10 E	WM	26	NE SE	WELL 3 - 70.6 FEET NORTH AND 26 FEET WEST FROM THE SE1/4 OF SECTION 25 AND 26

6. Temporary Drought Transfer Application T-14023 proposes to temporarily change the place of use of the right to:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
40 S	11 E	WM	32	SW SW	1400	20.06
41 S	11 E	WM	5	NE NW	500	38.38

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	11 E	WM	5	NW NW	600	19.0
41 S	11 E	WM	5	SW NW	600	3.6
41 S	11 E	WM	6	NW NE	101	38.36
					Total	119.4

Temporary Drought Transfer Review Criteria

7. 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. A description of the current delivery system for Permit G-18391, was not provided by the applicant on Temporary Drought Transfer Application T-14023.
9. 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.
10. The proposed changes would not result in enlargement of the rights.
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 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

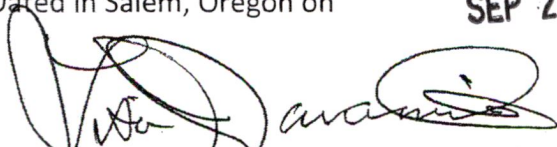
The temporary change in place of use and point of appropriation proposed in Temporary Drought Transfer Application T-14023 is not consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

Now, therefore, it is ORDERED:

1. The temporary change in place of use proposed in Temporary Drought Transfer Application T-14023 is denied.

Dated in Salem, Oregon on

SEP 20 2022



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

Mailing Date:

SEP 21 2022