

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING AN
T-13797, Baker County	)	EMERGENCY USE DROUGHT TEMPORARY
	)	CHANGE IN PLACES OF USE AND CHANGE
	)	IN POINTS OF DIVERSION

**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**

STEVE SHARP  
36975 SULLIVAN LN  
RICHLAND, OR 97870

**Findings of Fact**

1. On August 12, 2021, STEVE SHARP filed an application to temporarily change the places of use and change the points of diversion under Certificates 75362, 83363, 85561, and 89274 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-13797.

2. Notice of the application for transfer was published on August 31, 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:

**Certificate:** 75362 in the name of DRY GULCH DITCH COMPANY (perfected under Permit E-16)  
**Use:** IRRIGATION of 33.3 ACRES  
**Priority Date:** JULY 22, 1909  
**Rate:** 0.42 CUBIC FOOT PER SECOND

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:** The amount of water used for irrigation shall be limited to a diversion of ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent, for each acre irrigated during the irrigation season of each year.

**Source:** EAGLE CREEK, tributary of POWDER RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	45 E	WM	20	NE NW	#21 DRY GULCH DITCH - 75 FEET SOUTH AND 1550 FEET EAST FROM THE NW CORNER OF SECTION 20

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	18	NE NW	21.3
9 S	45 E	WM	18	NW NW	7.0
9 S	45 E	WM	18	SW NW	5.0
Total					33.3

4. Temporary Transfer Application T-13797 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	24	SE SW	12.0
9 S	45 E	WM	24	SW SE	21.3
Total					33.3

5. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13797 proposes to move the authorized point of diversion approximately 5.4 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	45 E	WM	10	SE NW	KAY YOUNG DITCH - 940 FEET NORTH AND 190 FEET WEST FROM THE C1/4 CORNER OF SECTION 10

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

**Certificate:** 83363 in the name of PAUL KNOBLAUCH (confirmed by POWDER RIVER and POWDER RIVER, CONSOLIDATED Decrees)

**Use:** IRRIGATION of 28.7 ACRES

**Priority Date:** 1881

**Rate:** ONE-FORTIETH OF ONE CUBIC FOOT PER SECOND PER ACRE

**Source:** EAGLE CREEK, tributary to the POWDER RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q
Not specified in certificate				

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	24	SW SE	28.7

7. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 83363 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	45 E	WM	10	SE NW	KAY YOUNG DITCH - 940 FEET NORTH AND 190 FEET WEST FROM THE C1/4 CORNER OF SECTION 10

8. Temporary Transfer Application T-13797 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	18	NE NW	21.3
9 S	45 E	WM	18	NW NW	7.4
Total					28.7

9. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13797 proposes to move the authorized point of diversion approximately 5.4 miles upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	45 E	WM	20	NE NW	DRY GULCH DITCH - 75 FEET SOUTH AND 1550 FEET EAST FROM THE NW CORNER OF SECTION 20

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

**Certificate:** 85561 in the name of DRY GULCH DITCH COMPANY (confirmed by POWDER RIVER Decree)

**Use:** IRRIGATION of 10.4 ACRES

**Priority Date:** 1894 for 10.4 ACRES

**Rate:** 0.26 CUBIC FOOT 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 a diversion of ONE-FORTIETH of one cubic foot per second per acre, or its equivalent, and shall be subject to all other conditions and limitations contained in said decree.

**Source:** EAGLE CREEK (AKA EAGLE CREEK AND LITTLE EAGLE CREEK), tributary of POWDER RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	45 E	WM	20	NE NW	#21 DRY GULCH DITCH - 75 FEET SOUTH AND 1550 FEET EAST FROM THE NW CORNER OF SECTION 20

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	18	NW NW	4.9
9 S	45 E	WM	18	SW NW	5.5
Total					10.4

11. Temporary Transfer Application T-13797 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	24	SE SW	3.0
9 S	45 E	WM	24	SW SE	7.4
Total					10.4

12. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13797 proposes to move the authorized point of diversion approximately 5.4 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	45 E	WM	10	SE NW	DRY GULCH DITCH - 940 FEET NORTH AND 190 FEET WEST FROM THE C1/4 CORNER OF SECTION 10

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

**Certificate:** 89274 in the name of BOB AND VINA MORRISON (confirmed by POWDER RIVER Decree)  
**Use:** IRRIGATION of 15.0 ACRES  
**Priority Date:** 1885  
**Rate:** ONE-FORTIETH OF ONE CUBIC FOOT PER SECOND PER ACRE  
**Source:** EAGLE CREEK, tributary to POWDER RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	45 E	WM	10	SE NW	KAY YOUNG DITCH - 940 FEET NORTH AND 190 FEET WEST FROM THE C1/4 CORNER OF SECTION 10

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	24	SE SW	15.0

14. Temporary Transfer Application T-13797 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	18	NW NW	4.5
9 S	45 E	WM	18	SW NW	10.5
Total					15.0

15. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13797 proposes to move the authorized point of diversion approximately 5.4 miles upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	45 E	WM	20	NE NW	DRY GULCH DITCH - 75 FEET SOUTH AND 1550 FEET EAST FROM THE NW CORNER OF SECTION 20

**Temporary Drought Transfer Review Criteria**

16. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
17. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
18. The Governor issued an executive order on May 10, 2021, declaring a state of drought emergency in Baker 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.
19. The proposed changes would not result in enlargement of the rights.
20. 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 places of use and points of diversion proposed in Temporary Drought Transfer Application T-13797 is are consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

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

1. The temporary change in places of use and points of diversion proposed in Temporary Drought Transfer Application T-13797 is approved.

2. The former places of use **shall not** be irrigated as part of these water rights during the remainder of the 2021 irrigation season 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 Certificates 75362, 83363, 85561, and 89274. The use shall revert to the authorized places of use at the end of the 2021 irrigation season.
5. The proposed change in places of use and points of diversion shall revert to the authorized places of use and points of diversion at the end of the 2021 irrigation season or the end of the Governor's declared drought, whichever occurs first.
6. The use of the remaining water rights described by Certificate 75362, 83363, 85561, and 89274 shall continue to be in accordance with the terms and conditions of Certificates 75362, 83363, 85561, and 89274.

Dated in Salem, Oregon on **OCT 11 2021**

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

Mailing Date: **OCT 12 2021**