

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A TEMPORARY
T-13678, Wallowa County)	CHANGE IN PLACE OF USE AND 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

TIM MELVILLE
84887 JOSEPH HWY
ENTERPRISE, OR 97828

Findings of Fact

1. On April 22, 2021, TIM MELVILLE filed an application to temporarily change the place of use and change the point of diversion to serve the proposed place of use under Certificate 94277 for a period of 5 years. The Department assigned the application number T-13678.
2. Notice of the application for transfer was published on April 27, 2021, 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:** 94277 in the name of MOONSHINE DITCH CO. (confirmed by WALLOWA RIVER Decree)
 - Use:** IRRIGATION of 16.8 ACRES OF LAND, DOMESTIC, AND STOCK USE
 - Priority Date:** 8:00 A.M., NOVEMBER 30, 1901
 - Limit/Duty:** The amount of water to which such right is entitled and hereby confirmed for the purposes aforesaid, is limited to an amount actually beneficially

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.

used for said purposes, and shall not exceed 1.5 acre feet per acre during any period of 30 days prior to July 31st of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season

Source: HURRICANE CREEK, a tributary of the WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
<i>Not specified in certificate</i>				

Authorized Place of Use:

IRRIGATION, DOMESTIC AND STOCK USE – TRACT 7						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 S	44 E	WM	1	NE NE	8	4.8
3 S	44 E	WM	1	NW NE	7	12.0
Total						16.8

4. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 94277 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	44 E	WM	3	NE NE	POD 1 - 40 FEET SOUTH AND 40 FEET WEST FROM THE NE CORNER OF SECTION 3

5. Temporary Transfer Application T-13678 proposes to temporarily change the place of use of the right to:

IRRIGATION, DOMESTIC AND STOCK USE – TRACT 7					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	44 E	WM	6	NE SE	9.1
2 S	44 E	WM	6	SE SE	7.7
Total					16.8

6. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13678 proposes to move the authorized point of diversion approximately 29 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	44 E	WM	3	NE NE	POD 2 - 12 FEET SOUTH AND 48 FEET WEST FROM THE SW CORNER OF SECTION 35, T2S, R44E, WM

7. Temporary Transfer Application T-13678 proposes to temporarily transfer a water right within the boundaries of Alder Slope Ditch Company (Company). The Company was notified of the proposed temporary transfer and did not provide any comments.

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 diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
10. The proposed changes 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).
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 changes in place of use and point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13678 are 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 change in point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13678 is approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2021, 2022, 2023, 2024, and 2025 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2025 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 94277 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 94277.

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 94277 shall continue to be in accordance with the terms and conditions of Certificate 94277.

Dated in Salem, Oregon on

JUN 14 2021



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

JUN 15 2021

Mailing Date: