

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

| | | |
|---------------------------------------|---|------------------------------|
| In the Matter of Transfer Application |) | FINAL ORDER APPROVING AN |
| T-13427, Klamath County |) | EMERGENCY USE DROUGHT |
| |) | TEMPORARY CHANGE IN 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

ROBERT UNRUH
30083 PICKETT
MALIN, OR 97632

Findings of Fact

1. On May 1, 2020, ROBERT UNRUH filed an application to temporarily change the place of use under Certificate 27103 and Permit G-12450 for the remainder of the 2020 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-13427.
2. Notice of the application for transfer was published on May 12, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 9, 2018, the Department approved Temporary Drought Transfer Application T-12910 (Special Order Volume 108, Page 145), involving Certificate 27103 and Permit G-12450.

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 first right to be temporarily transferred is as follows:

Certificate: 27103 in the name of ALICE PEREIRA (perfected under Permit G-255)
Use: IRRIGATION of 10.0 ACRES
Priority Date: MAY 28, 1956
Rate: 0.13 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: PEREIRA WELL, a tributary of TULELAKE SUMP

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|--|
| 40 S | 12 E | WM | 28 | SW SW | PEREIRA WELL - 3 CHAINS NORTH AND 15.75 CHAINS EAST FROM THE SW CORNER OF SECTION 28 |

Authorized Place of Use:

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 40 S | 12 E | WM | 28 | SW NW | 10.0 |

5. Temporary Transfer Application T-13427 proposes to temporarily change the place of use of the right to:

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 40 S | 12 E | WM | 33 | NW SW | 10.0 |

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

Permit: G-12450 in the name of NORTHWEST FARM CREDIT SERVICES, FLCA and NORTHWEST FARM CREDIT SERVICES, PCA and R AND C AG, LLC (authorized under Application G-12860)
Use: PRIMARY AND SUPPLEMENTAL IRRIGATION OF 40.4 ACRES
Priority Date: APRIL 6, 1992
Rate: 0.38 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 land, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.
Period of Use: APRIL 15 THROUGH OCTOBER 15
Source: TWO WELLS in the LOST RIVER BASIN

Authorized Points of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|--|
| 40 S | 12 E | WM | 28 | SW SW | WELL #1 - 200 FEET NORTH AND 1040 FEET EAST FROM THE SW CORNER OF SECTION 28 |
| 40 S | 12 E | WM | 28 | SW SW | WELL #2 - 150 FEET NORTH AND 790 FEET EAST FROM THE SW CORNER OF SECTION 28 |

Authorized Place of Use:

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 40 S | 12 E | WM | 28 | SW NW | 17.4 |
| 40 S | 12 E | WM | 28 | NW SW | 1.0 |
| 40 S | 12 E | WM | 28 | SW SW | 6.0 |
| Total | | | | | 24.4 |

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 40 S | 12 E | WM | 28 | SW SW | 6.0 |

7. Temporary Transfer Application T-13427 proposes to temporarily change the place of use of the right to:

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 40 S | 12 E | WM | 32 | NE SW | 21.0 |
| 40 S | 12 E | WM | 33 | NW SW | 3.4 |
| Total | | | | | 24.4 |

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 40 S | 12 E | WM | 32 | NE SW | 6.0 |

Temporary Drought Transfer Review Criteria

8. 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.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
10. The Governor issued an executive order on March 2, 2020, 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.
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.

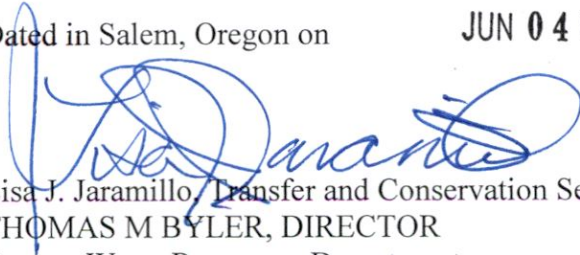
Conclusions of Law

The temporary change in places of use proposed in Temporary Drought Transfer Application T-13427 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 proposed in Temporary Drought Transfer Application T-13427 are approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the remainder of the 2020 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 change causes 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 27103 and Permit G-12450. The use shall revert to the authorized place of use at the end of the 2020 irrigation season.
5. The proposed change in places of use shall revert to the authorized places of use at the end of the 2020 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 27103 and Permit G-12450 shall continue to be in accordance with the terms and conditions of Certificate 27103 and Permit G-12450.

Dated in Salem, Oregon on **JUN 04 2020**


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

Mailing Date: **JUN 05 2020**