

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-12653, Wallowa County)	TEMPORARY CHANGES 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

NORMAN WERST
74822 LOWER DIAMOND LANE
WALLOWA, OR 97885

Findings of Fact

1. On April 24, 2017, Norman Werst 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 79798 for a period of 5 years. The Department assigned the application number T-12653.
2. Notice of the application for transfer was published on May 2, 2017, 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: 79798 in the name of ARNOLD J. SCHAEFFER (perfected under Permit S-40889)
Use: IRRIGATION of 20.0 ACRES
Priority Date: JULY 16, 1976
Rate: 0.16 CUBIC FEET 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 the equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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.

Source: WALLOWA RIVER tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	42 E	WM	11	SW NW	1800 FEET SOUTH AND 1000 FEET EAST FROM THE NW CORNER OF SECTION 11

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
2 N	42 E	WM	27	SW SE	20.00

4. Temporary Transfer Application T-12653 proposes to temporarily change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	5	SE NE	14.0
1 N	42 E	WM	4	SW NW	0.90
1 N	42 E	WM	4	NW SW	5.10
Total:					20.0

5. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-12653 proposes to move the authorized point of diversion approximately 1.0 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	42 E	WM	3	SE SW	WJ-1000 FEET NORTH AND 1550 FEET EAST FROM THE SW CORNER OF SECTION 11

6. Temporary Transfer Application T-12653 proposes to temporarily transfer a water right within the boundaries of Lower Valley Ditch. The district was notified of the proposed temporary transfer and indicated that the district did not object to the transfer.

Temporary 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 pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
9. The proposed changes as conditioned would not result in enlargement of the right.
10. The proposed changes as conditioned 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.

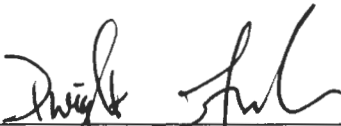
Conclusions of Law

The temporary changes in place of use and point of diversion to convey water to the temporary place of use proposed in application Temporary Transfer Application T-12653 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. 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-12653 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2017, 2018, 2019, 2020, and 2021 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2021, 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 79798 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 79798.
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. Water use measurement conditions:
 - a. **Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device(s); provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
9. The use of the remaining water right described by Certificate 79798 shall continue to be in accordance with the terms and conditions of Certificate 79798.

Dated at Salem, Oregon this 14 day of June, 2017.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing Date: JUN 19 2017