

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

In the Matter of Transfer Application            )  
T-13763, Crook County                            )        **FINAL ORDER APPROVING A TEMPORARY  
CHANGE IN PLACE OF USE**

**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**

MARTIN AND BETTY HOWARD REVOCABLE TRUST  
16305 NE OCHOCO HIGHWAY  
PRINEVILLE, OR 97754

**Findings of Fact**

1. On July 6, 2021, MARTIN AND BETTY HOWARD REVOCABLE TRUST filed an application to temporarily change the place of use under Certificate 550 for a period of 5 years. The Department assigned the application number T-13763.
2. Notice of the application for transfer was published on July 20, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 6, 2021, the Department contacted the applicant by written correspondence to notify the applicant and the applicant’s agent of deficiencies in the application. The copy of the deed did not match the lands appurtenant to Certificate 550, and the acres in Table 2 did not match the map. The Department requested that the deficiencies be resolved by September 7, 2021.

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. On August 11, 2021, the Department received a revised Table 2 and map. The revised Table 2 included another water right, being Certificate 654. Certificate 654 was cancelled upon the approval of Transfer Application T-8614, and remaining right Certificate 85417 was issued. Therefore, Certificate 85417 is being added to transfer application T-13763.
5. On August 13, 2021, the Department received a copy of the deed for the lands appurtenant to T-13763.
6. On August 24, 2021, the Department notified the applicant by written correspondence that additional fees are required to continue processing T-13763, as Certificate 85417 was added to the application.
7. On August 30, 2021, the Department received the requested additional fees, resolving the deficiencies.
8. The portion of the first right to be temporarily transferred is as follows:

**Certificate:** 550 in the name of E. S. DOBBS (confirmed by CROOKED RIVER (F) Decree)  
**Use:** IRRIGATION of 4.0 ACRES  
**Priority Date:** 1894  
**Rate:** 0.05 CUBIC FOOT PER SECOND FOR IRRIGATION, THE TOTAL QUANTITY BEING LIMITED TO FOUR ACRE FEET PER ACRE DURING EACH YEAR  
**Source:** OCHOCO CREEK, a tributary of CROOKED RIVER

**Authorized Point of Diversion:**

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

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	17 E	WM	36	SE SW	4.0

9. Temporary Transfer Application T-13763 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	17 E	WM	1	NE NW	2.5
15 S	17 E	WM	1	NW NW	1.5
Total					4.0

**Conclusions of Law**

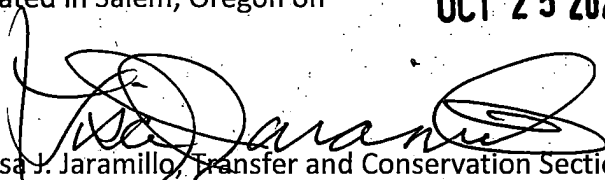
The temporary change in places of use proposed in Temporary Transfer Application T-13763 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

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

1. The temporary change in places of use proposed in Temporary Transfer Application T-13763 is approved.
2. The former places of use **shall not** be irrigated as part of these water rights during the 2021, 2022, 2023, 2024 and 2025 irrigation seasons.
3. The use shall revert to the authorized places of use at the end of the 2025 irrigation season.
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 Certificates 550 and 85417 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 Certificates 550 and 85417.
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 rights described by Certificates 550 and 85417 shall continue to be in accordance with the terms and conditions of Certificates 550 and 85417.

Dated in Salem, Oregon on

**OCT 25 2021**

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

*Mailing Date:*

**OCT 26 2021**

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

**Certificate:** 85417 in the name of G.H. RUSSELL (confirmed by CROOKED RIVER Decree)  
**Use:** IRRIGATION of 4.0 ACRES, DOMESTIC, LIVESTOCK USE AND DEVELOPMENT OF 25 HORSEPOWER  
**Priority Date:** 1873  
**Rate:** 0.05 CUBIC FOOT PER SECOND FOR IRRIGATION, THE TOTAL QUANTITY BEING LIMITED TO 4.0 ACRE-FEET PER ACRE DURING EACH YEAR  
**Source:** OCHOCO, VEAZIE and LAWSON CREEKS, tributary to the CROOKED RIVER

**Authorized Point of Diversion:**

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

**Authorized Place of Use:**

IRRIGATION, DOMESTIC, LIVESTOCK AND POWER DEVELOPMENT					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	17 E	WM	1	NE NW	2.5
15 S	17 E	WM	1	NW NW	1.5
Total					4.0

11. Temporary Transfer Application T-13763 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	17 E	WM	36	SE SW	4.0

**Temporary Transfer Review Criteria**

12. 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.
13. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
14. The proposed changes would prevent the lands from which the water rights are removed during the period of the temporary transfer from receiving water under the transferred rights, as required by ORS 540.523(7).
15. 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.