

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-12134, Jackson County)	EMERGENCY USE DROUGHT
)	TEMPORARY CHANGE IN PLACE OF
)	USE AND ADDITIONAL POINT 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.

Applicants

ALAN AND MYRNA BLAKENSHIP
29280 HWY 62
TRAIL, OR 97541

Findings of Fact

1. On August 17, 2015, ALAN AND MYRNA BLAKENSHIP filed an application to temporarily change the place of use and add a point of diversion under Certificate 26711 for the remainder of the 2015 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-12134.
2. Notice of the application for transfer was published on August 25, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. No information was submitted with the transfer application to establish that a water delivery system sufficient to use the full amount of water allowed under the existing right is present [OAR 690-380-3000(10)]. On August 26, 2015, the Department contacted the applicant's agent by telephone and email and requested the information. On September 4, 2015, the agent submitted an amended application page with the required information and clarified the types of changes requested.

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 right to be temporarily transferred is as follows:

Certificate: 26711 in the name of MARCUS DEY (perfected under Permit S-19898)
Use: IRRIGATION of 0.65 ACRE
Priority Date: NOVEMBER 2, 1950
Rate: 0.01 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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: APRIL 2 TO OCTOBER 31

Source: A SPRING, a tributary of the ROGUE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
33 S	2 E	WM	17	SE NW

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
33 S	2 E	WM	17	SW NE	0.20
33 S	2 E	WM	17	SE NW	0.45

5. Certificate 26711 does not describe the measured distances of the point of diversion, however information is available from the applicant and their agent further describing the location of the point of diversion as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	2 E	WM	17	SE NW	780 FEET NORTH AND 40 FEET WEST FROM THE CENTER OF SECTION 17

6. Temporary Drought Application T-12134 proposes to add an additional point of diversion approximately 236 feet from the existing point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	2 E	WM	17	SE NW	560 FEET NORTH AND 120 FEET WEST FROM THE CENTER OF SECTION 17

7. Temporary Drought Application T-12134 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
33 S	2 E	WM	17	SE NW	0.65

Temporary Drought 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 pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
10. The Governor issued an executive order on May 21, 2015, declaring a state of drought emergency in Jackson 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 right.
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 changes in place of use and additional point of diversion proposed in Temporary Drought Transfer Application T-12134 are consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and additional point of diversion proposed in Temporary Drought Transfer Application T-12134 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the remainder of the 2015 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 Certificate 26711.
5. The proposed changes in place of use and additional point of diversion shall revert to the authorized place of use and point of diversion at the end of the 2015 irrigation season or the end of the Governor's declared drought, whichever occurs first.

6. The use of the remaining water right described by Certificate 26711 shall continue to be in accordance with the terms and conditions of Certificate 26711.

Dated at Salem, Oregon this 4 day of September, 2015.



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

Mailing Date: SEP 10 2015