

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13936, 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

BRANTWOOD, LLC
PO BOX 459
ENTERPRISE, OR 97828

Findings of Fact

1. On February 25, 2022, BRANTWOOD, LLC filed an application to temporarily change the place of use and change the point of diversion to serve the proposed place of use under Certificates 57247 and 65283 for a period of 5 years. The Department assigned the application number T-13936.
2. Notice of the application for transfer was published on March 8, 2022, pursuant to OAR 690-380-4000.
3. The first right to be temporarily transferred is as follows:
Certificate: 57247 in the name of MOORE BROTHERS (perfected under Permit S-39244)
Use: IRRIGATION of 55.0 ACRES
Priority Date: JUNE 18, 1974
Rate: 1.0 CUBIC FOOT PER SECOND

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.

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-FORTIETH 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WALLOWA RIVER, a tributary of GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	44 E	WM	24	SE NE	1030 FEET NORTH AND 390 FEET WEST FROM THE EAST 1/4 CORNER OF SECTION 24

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	44 E	WM	32	NW NW	20.7
1 S	44 E	WM	32	SW NW	12.3
1 S	44 E	WM	32	SE NW	22.0
Total					55.0

4. Temporary Transfer Application T-13936 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	20	SW NE	2.4
1 S	43 E	WM	20	SE NW	11.5
1 S	43 E	WM	20	NE SW	0.8
1 S	43 E	WM	20	NW SE	1.6
1 S	43 E	WM	21	NE SW	11.0
1 S	43 E	WM	21	NW SW	19.0
1 S	43 E	WM	21	SE SW	8.7
Total					55.0

5. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13936 proposes to move the authorized point of diversion approximately 14.5 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	27	NW NW	PACE DITCH - 1280 FEET SOUTH AND 291 FEET EAST FROM NW CORNER SECTION 27
1 N	43 E	WM	28	NE NE	TM DITCH - 250 FEET SOUTH AND 450 FEET WEST FROM THE NE CORNER OF SECTION 28

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

Certificate: 65283 in the name of MERTON S WADE (perfected under Permit S-41469)
Use: IRRIGATION of 62.3 ACRES
Priority Date: FEBRUARY 14, 1977
Rate: 1.56 CUBIC FEET PER SECOND
Limit/Duty: The amount of water used for irrigation under this right, 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 (or its equivalent) and 3.5 acre-feet for each acre irrigated during the irrigation season of each year.
Source: WALLOWA RIVER, a tributary of the GRANDE RONDE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	24	NE SW	DIVERSION 2 - 2320 FEET NORTH AND 3180 FEET WEST FROM THE SE CORNER OF SECTION 24

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	13	SW SE	27.7
1 S	43 E	WM	13	SE SE	5.2
1 S	43 E	WM	24	NW NE	21.8
1 S	43 E	WM	24	SW NE	7.60
Total					62.3

7. Temporary Transfer Application T-13936 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	20	SW NW	3.8
1 S	43 E	WM	20	SE NW	8.9
1 S	43 E	WM	21	SW NW	24.0
1 S	43 E	WM	21	NE SW	25.6
Total					62.3

8. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13936 proposes to move the authorized point of diversion approximately 14.5 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	27	NW NW	PACE DITCH - 1280 FEET SOUTH AND 291 FEET EAST FROM NW CORNER SECTION 27
1 N	43 E	WM	28	NE NE	TM DITCH - 250 FEET SOUTH AND 450 FEET WEST FROM THE NE CORNER OF SECTION 28

9. Temporary Transfer Application T-13936 proposes to temporarily transfer a water rights within the boundaries of Alder Slope Ditch Company. The district was notified of the proposed temporary transfer, the district did not object to the transfer.

Temporary Transfer Review Criteria

10. 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.
11. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
12. 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 rights, as required by ORS 540.523(7).
13. 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 points of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13936 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

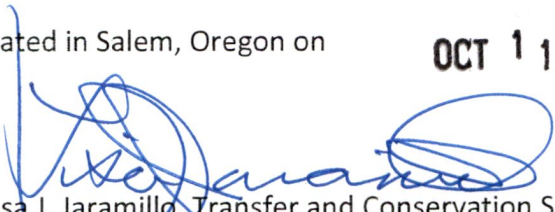
Now, therefore, it is ORDERED:

1. The temporary change in places of use and change in points of diversion to convey water to the temporary places of use proposed in Temporary Transfer Application T-13936 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2022, 2023, 2024, 2025 and 2026 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2026 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. The quantity of water diverted at the proposed temporary points of diversion shall not exceed the quantity of water lawfully available at the original points of diversion.

6. The quantity of water diverted at the proposed temporary additional points of diversion, together with that diverted at the original points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
7. A subsequent application for permanent transfer of Certificates 57247 and 65283 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.
8. 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 57247 and 65283.
9. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
10. The use of the remaining water rights described by Certificate 65283 shall continue to be in accordance with the terms and conditions of Certificate 65283.

Dated in Salem, Oregon on

OCT 11 2022



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

Mailing Date:

OCT 13 2022