

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-12829, Benton County)	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

TOM GORACKE
26744 MCFARLAND RD
MONROE, OR 97456

Findings of Fact

1. On January 25, 2018, TOM GORACKE filed an application to temporarily change the place of use under Certificate 24030 for a period of five years. The Department assigned the application number T-12829.
2. Notice of the application for transfer was published on February 6, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 12, 2018, the Department sent a deficiency letter to the applicant's agent regarding an incomplete application.
4. On March 2, 2018, the Department received the required attachments and amendments to the application.
5. Certificate 37500 is layered with Certificate 24030 for the portion of the authorized place of use proposed to change in place of use. The applicant provided a statement that the layered water right Certificate 37500 will remain unexercised at the place of use as described during the period of this temporary transfer.

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.

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

Certificate: 24030 in the name of C. B. READER (perfected under Permit S-21749)
Use: IRRIGATION of 20.0 ACRES
Priority Date: SEPTEMBER 4, 1952
Rate: 0.25 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.
Source: MUDDY CREEK, tributary to MARYS RIVER, tributaries of the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC
14 S	5 W	WM	9	SW NW	41

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
14 S	5 W	WM	4	SW SW	41	1.4
14 S	5 W	WM	5	SE SE	41	0.2
14 S	5 W	WM	8	NE NE	41	14.2
14 S	5 W	WM	9	NW NW	41	4.2
TOTAL						20.0

1. Certificate 24030 does not describe the location of the point of diversion, however information is available from applicant indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
14 S	5 W	WM	9	SW NW	41	44.36639, -123.30905

2. Temporary Transfer Application T-12829 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
14 S	5 W	WM	4	SW SW	41	16.6
14 S	5 W	WM	9	NW NW	41	3.4
TOTAL						20.0

3. Temporary Transfer Application T-12829 proposes to temporarily transfer a water right within the boundaries of Greenberry Irrigation District. The district was notified of the proposed temporary transfer and indicated that the district did not object to the transfer.

Temporary Transfer Review Criteria

4. The right was used under Temporary Transfer T-11529 during the period 2013 to 2017 irrigation seasons and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
5. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
6. The proposed change would not result in enlargement of the right.
7. The proposed change 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 change in place of use proposed in Temporary Transfer Application T-12829 is consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

8. The temporary change in place of use proposed in Temporary Transfer Application T-12829 is approved.
9. The former place of use **shall not** be irrigated as part of this water right during the 2018, 2019, 2020, 2021, and 2022 irrigation seasons.
10. The use shall revert to the authorized place of use at the end of the 2022 irrigation season.
11. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
12. A subsequent application for permanent transfer of Certificate 24030 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.
13. 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 24030.
14. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
15. 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 the existing point of appropriation.

- 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; provided however, where the meter or measuring device are located within a private structure, the Watermaster shall request access upon reasonable notice.
16. The use of the remaining water right described by Certificate 24030 shall continue to be in accordance with the terms and conditions of Certificate 24030.

Dated at Salem, Oregon, MAR 22 2018.



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

Mailing Date: MAR 26 2018

Oregon Water Resources Department

Measurement Condition Information for the Applicant

(to be sent with the Draft Preliminary Determination or Final Order)

Transfer #: T-12829

In order to avoid enlargement of the right or injury to other rights, a totalizing flow meter will be required to be installed **prior to diversion of water**, as a condition of this transfer:

at each point of diversion/appropriation (new and existing) or

at each new point of diversion/appropriation.

For additional information, or to obtain approval of a different type of measurement device, the applicant should contact the area Watermaster:

Watermaster name: Joel Plahn

District: 16

Address: 725 Summer St NE Suite A

City/State/Zip: Salem OR 97361

Phone: 503-986-0889

Email: joel.m.plahn@oregon.gov

Note: If a device other than the one specified in the Preliminary Determination or Final Order is approved by the Watermaster, fill out and mail the form below to the Salem office.

Approval of an Alternate Measurement Device

T-_____

(to be filled out after consultation with the applicant, or after a site visit)

On behalf of the Director, I authorize use of the following suitable **alternate measurement device**:

Watermaster signature

District

Date

If this form is used for approval of an alternative measurement device, it must be mailed to:

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266