

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13217, Grant County)	TEMPORARY CHANGES 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

LARRY LASSEN
PO BOX 3338
SALEM, OR 97302

Findings of Fact

1. On July 8, 2019, LARRY LASSEN filed an application to temporarily change the place of use under Certificates 24921, 24922, 24923, 26025, and 77607 for a period of 5 years. The Department assigned the application number T-13217.
2. Notice of the application for transfer was published on July 23, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The portion of the first right to be temporarily transferred is as follows:

Certificate: 24921 in the name of IRA G. AND CLARA A. BOYCE (perfected under JOHN DAY RIVER (F) DECREE)
Use: IRRIGATION of 75.2 ACRES
Priority Date: 1865 – TRACT #2
Rate: SHALL NOT EXCEED 1/40 CUBIC FOOT PER SECOND PER ACRE IRRIGATED FROM APRIL 1 TO SEPT. 30; FURTHER LIMITED TO ONE ACRE-FOOT PER ACRE PER CALENDAR MONTH TO JULY 1 AND 3/4 ACRE-FOOT PER ACRE THEREAFTER; TOTAL FIVE ACRE-

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.

FEET PER ACRE FOR SEASON, MEASURED AT POINT OF DIVERSION

Source: JOHN DAY RIVER

Authorized Point of Diversion:

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

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	29 E	WM	20	NE SE	40.0
13 S	29 E	WM	20	NW SE	30.2
13 S	29 E	WM	20	SE SE	5.0
Total					75.2

4. The Department received information from the applicant that better describes the location of the authorized point of diversion (POD) for Certificate 24921 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	29 E	WM	21	SW SW	BOYCE DITCH – SOUTH 27 DEGREES 30 MINUTES EAST, 1817 FEET FROM THE W1/4 CORNER OF SECTION 21

5. Temporary Transfer Application T-13217 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	29 E	WM	20	NE SW	6.5
13 S	29 E	WM	20	SE SW	7.0
13 S	29 E	WM	20	SW SE	27.2
13 S	29 E	WM	20	SE SE	25.7
13 S	29 E	WM	29	NE NE	6.8
13 S	29 E	WM	29	NW NE	2.0
Total					75.2

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

Certificate: 24922 in the name of IRA G. AND CLARA A. BOYCE (perfected under JOHN DAY RIVER (F) DECREEE)

Use: IRRIGATION of 53.9 ACRES, DOMESTIC, AND STOCK

Priority Date: 1872

Rate: SHALL NOT EXCEED 1/40 CUBIC FOOT PER SECOND PER ACRE IRRIGATED TO JUNE 1 AND 1/80 CUBIC FOOT PER SECOND PER ACRE THEREAFTER; FURTHER LIMITED TO ONE ACRE-FOOT PER CALENDAR MONTH TO JUNE 1 AND FOUR ACRE-FEET PER ACRE DURING SEASON APRIL 1 TO SEPT. 30, MEASURED AT POINT OF DIVERSION

Source: MOON CREEK

Authorized Point of Diversion:

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

Authorized Place of Use: -

IRRIGATION, DOMESTIC, AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	29 E	WM	20	SE SW	1.0
13 S	29 E	WM	20	SW SE	27.2
13 S	29 E	WM	20	SE SE	25.7
Total					53.9

7. The Department received information from the applicant that better describes the location of the authorized POD for Certificate 24922 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	29 E	WM	28	NW SE	1550 FEET NORTH AND 1840 FEET WEST FROM THE SE CORNER OF SECTION 28

8. Temporary Transfer Application T-13217 proposes to temporarily change the place of use of the right to:

IRRIGATION, DOMESTIC, AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	29 E	WM	20	NE SE	31.0
13 S	29 E	WM	20	NW SE	17.9
13 S	29 E	WM	20	SE SE	5.0
Total					53.9

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

Certificate: 24923 in the name of IRA G. AND CLARA A. BOYCE (perfected under JOHN DAY RIVER (F) DECREE)

Use: IRRIGATION of 12.3 ACRES AND DOMESTIC

Priority Date: 1882

Rate: SHALL NOT EXCEED 1/40 CUBIC FOOT PER SECOND PER ACRE IRRIGATED TO JUNE 1 AND 1/80 CUBIC FOOT PER SECOND PER ACRE THEREAFTER; FURTHER LIMITED TO ONE ACRE-FOOT PER CALENDAR MONTH TO JUNE 1 AND FOUR ACRE-FEET PER ACRE DURING SEASON APRIL 1 TO SEPT. 30, MEASURED AT POINT OF DIVERSION

Source: DUSTIN CREEK and PICNIC CREEK

Authorized Points of Diversion:

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

Authorized Place of Use:

IRRIGATION AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	29 E	WM	20	NE SW	6.5
13 S	29 E	WM	20	SE SW	5.8
Total					12.3

10. The Department received information from the applicant that better describes the location of the authorized PODs for Certificate 24922 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	29 E	WM	29	NE NW	DUSTIN CREEK - 280 FEET SOUTH AND 2100 FEET EAST FROM THE NW CORNER OF SECTION 29
13 S	29 E	WM	29	NW NW	PICNIC CREEK - 200 FEET SOUTH AND 800 FEET EAST FROM THE NW CORNER OF SECTION 29

11. Temporary Transfer Application T-13217 proposes to temporarily change the place of use of the right to:

IRRIGATION AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	29 E	WM	20	NW SE	12.3

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

Certificate: 26025 in the name of A. A. YOKOM (perfected under JOHN DAY RIVER (F) DECREE)

Use: IRRIGATION of 8.8 ACRES, DOMESTIC, and STOCK

Priority Date: 1895

Rate: 0.22 CUBIC FOOT PER SECOND

Limit/Duty: SHALL NOT EXCEED 1/40 CUBIC FOOT PER SECOND PER ACRE IRRIGATED TO JUNE 1 AND 1/80 CUBIC FOOT PER SECOND PER ACRE THEREAFTER; FURTHER LIMITED TO ONE ACRE-FOOT PER CALENDAR MONTH TO JUNE 1 AND FOUR ACRE-FEET PER ACRE DURING SEASON APRIL 1 TO SEPT. 30, MEASURED AT POINT OF DIVERSION

Source: MOON CREEK

Authorized Point of Diversion:

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

Authorized Place of Use:

IRRIGATION, DOMESTIC, AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	29 E	WM	29	NE NE	6.8
13 S	29 E	WM	29	NW NE	2.0
Total					8.8

13. The Department received information from the applicant that better describes the location of the authorized POD for Certificate 26025 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	29 E	WM	28	NW SE	1550 FEET NORTH AND 1840 FEET WEST FROM THE SE CORNER OF SECTION 28

14. Temporary Transfer Application T-13217 proposes to temporarily change the place of use of the right to:

IRRIGATION, DOMESTIC, AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	29 E	WM	20	NE SE	8.8

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

Certificate: 77607 in the name of MCKINLEY BROTHERS; RICHARD MCKINLEY (perfected under Permit S-3163)

Use: IRRIGATION of 75.2 ACRES

Priority Date: OCTOBER 23, 1916

Rate: 0.94 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, is 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 1.0 acre-foot per acre for each acre irrigated during any month prior to July 1, and thereafter 3/4 of one acre-foot per acre irrigated and shall be further limited to a total diversion of not to exceed 5.0 acre-feet for each acre irrigated during the irrigation season from April 1 to September 30 of each year.

Source: JOHN DAY RIVER, a tributary of the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	29 E	WM	20	NE SW	ADDITIONAL - 2530 FEET NORTH AND 2810 FEET WEST FROM THE SE CORNER OF SECTION 20
13 S	29 E	WM	21	SW SW	BOYCE DITCH - SOUTH 27 DEGREES 30 MINUTES EAST, 1817 FEET FROM THE W1/4 CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	29 E	WM	20	NE SW	6.5
13 S	29 E	WM	20	SE SW	7.0
13 S	29 E	WM	20	SW SE	27.2
13 S	29 E	WM	20	SE SE	25.7
13 S	29 E	WM	29	NE NE	6.8
13 S	29 E	WM	29	NW NE	2.0
Total					75.2

16. Temporary Transfer Application T-13217 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	29 E	WM	20	NE SE	40.0
13 S	29 E	WM	20	NW SE	30.2
13 S	29 E	WM	20	SE SE	5.0
Total					75.2

Temporary Transfer Review Criteria

17. 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.
18. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
19. The proposed changes would not result in enlargement of the rights.
20. 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 proposed in Temporary Transfer Application T-13217 are 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 proposed in Temporary Transfer Application T-13217 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2019, 2020, 2021, 2022 and 2023 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2023 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 24921, 24922, 24923, 26025, and 77607 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 24921, 24922, 24923, 26025, and 77607.
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. Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.
9. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a weir, parshall flume, submerged orifice, or ramp flume, with prior approval of the Director, another suitable measuring device, at each point of diversion (new and existing).
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
10. The use of the remaining water rights described by Certificates 24921, 24922, 24923, 26025, and 77607 shall continue to be in accordance with the terms and conditions of Certificates 24921, 24922, 24923, 26025, and 77607.

Dated in Salem, Oregon on AUG 27 2019



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

Mailing Date: AUG 28 2019