

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

In the Matter of Transfer Application)
T-12142, Baker County)
)
) FINAL ORDER APPROVING AN
) EMERGENCY USE DROUGHT
) TEMPORARY CHANGE IN
) PLACES OF USE

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.

Applicant

CHET AND CAROL CARNAHAN
36252 CARNAHAN LANE
RICHLAND, OR 97870

Findings of Fact

1. On August 24, 2015, CHET AND CAROL CARNAHAN filed an application to temporarily change the places of use under Certificates 4721, 4722, and 73620 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-12142.
2. Notice of the application for transfer was published on September 1, 2015, 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: 4721 in the name of G. B. SAUNDERS (confirmed by the Powder River Decree)
Use: IRRIGATION of 3.9 ACRES
Priority Date: 1889
Rate: 0.09 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed ONE-FORTIETH of one cubic foot per second per acre, and shall be subject to all other conditions and limitations contained in said decree.
Source: EAGLE CREEK, a tributary to the POWDER RIVER

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.

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	14	NW NE	3.9

4. Temporary Transfer Application T-12142 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax lot*	Acres
9 S	45 E	WM	11	NE SW	600*	3.9
* Additional information not from original Certificate						

5. Certificate 4721 does not describe the point of diversion, however information is available from the Powder River Decree and the applicant that better describes the point of diversion as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH:1950 FEET SOUTH AND 1400 FEET EAST FROM THE NW CORNER OF SECTION 33

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

Certificate: 4722 in the name of G B SAUNDERS; HEIRS OF D J SAUNDERS
(confirmed by the Powder River Decree)

Use: IRRIGATION of 14.1 ACRES

Priority Date: 1888

Rate: 0.35 CUBIC FOOT PER SECOND

Limit/Duty: That the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purpose, and shall not exceed one-fortieth of one cubic foot per acre, and shall be subject to all other conditions and limitations contained in said decree.

Source: EAGLE CREEK tributary to the POWDER RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	14	SW NE	1.3
9 S	45 E	WM	14	NE NW	11.5
9 S	45 E	WM	14	SE NW	1.3
Total					14.1

7. Temporary Transfer Application T-12142 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres
9 S	45 E	WM	11	NE SW	600	9.1
9 S	45 E	WM	11	NE SW	500	5.0
Total						14.1

8. Certificate 4722 does not describe the point of diversion, however information is available from the Powder River Decree and the applicant that better describes the point of diversion as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH: 1950 FEET SOUTH AND 1400 FEET EAST FROM THE NW CORNER OF SECTION 33

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

Certificate: 73620 in the name of J W CARNAHAN (confirmed by the Powder River Decree)

Use: IRRIGATION of 18 ACRES

Priority Date: 1877

Rate: 0.45 CUBIC FEET 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 a diversion of ONE-FORTIETH of one cubic foot per second, 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: EAGLE CREEK tributary to the POWDER RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH: 1950 FEET SOUTH AND 1400 FEET EAST FROM THE NW CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	*Tax lot	Acres
9 S	45 E	WM	11	NE SW	*600	13.0
9 S	45 E	WM	11	NE SW	*500	5.0
Total						18.0
* Additional information not from original Certificate						

10. Temporary Transfer Application T-12142 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres
9 S	45 E	WM	14	NE NW	300	11.5
9 S	45 E	WM	14	SE NW	300	1.3
9 S	45 E	WM	14	SW NE	300	1.3
9 S	45 E	WM	14	NW NE	300	3.9
Total						18.0

Temporary Drought Transfer Review Criteria

11. 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 right(s) [is] or [are] subject to forfeiture under ORS 540.610.
12. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.

13. The Governor issued an executive order on April 20, 2015, declaring a state of drought emergency in Baker 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.
14. The proposed changes would not result in enlargement of the rights.
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 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.

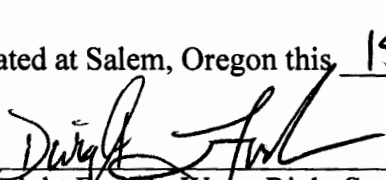
Conclusions of Law

The temporary change in places of use proposed in Temporary Drought Transfer Application T-12142 is consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

Now, therefore, it is ORDERED:

1. The temporary change in places of use, proposed in Temporary Drought Transfer Application T-12142 is approved.
2. The former places 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 causes 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 Certificates 4721, 4722, and 73620. The use shall revert to the authorized place of use at the end of the 2015 irrigation season.
5. The proposed change in place of use shall revert to the authorized place of use 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 rights described by Certificates 4721, 4722, and 73620 shall continue to be in accordance with the terms and conditions of Certificates 4721, 4722, and 73620.

Dated at Salem, Oregon this 15 day of September 2015.



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

Mailing Date: SEP 16 2015