

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

In the Matter of Transfer Application)	FINAL ORDER DENYING AN
T-12918, Klamath County)	EMERGENCY USE DROUGHT
)	TEMPORARY CHANGE IN POINT OF
)	APPROPRIATION

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

MLM PROPERTY LLC
PO BOX 195
MERRILL, OR 97633

Findings of Fact

1. On May 7, 2018, MLM PROPERTY LLC, filed an application to temporarily change the point of appropriation under Permit G-16156 for the remainder of the 2018 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-12918.
2. Notice of the application for transfer was published on May 15, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 2, 2018, the Department contacted the agent for the applicant by phone regarding deficiencies in the application specifically related to Table 2 and missing signatures from all permit holders.
4. On August 2, 2018, the Department received an amended table 2, partially satisfying the deficiencies of the application.
5. On August 17, 2018, the Department received two additional signature pages by email from the agent for the applicant.

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. On September 25, 2018, the Department contacted the agent for the applicant by email requesting additional signature pages. As of November 2, 2018 no additional signatures have been received, therefore the application is incomplete.

7. The portion of the permit to be temporarily transferred is as follows:

Permit: G-16156 in the name of DANIEL CHIN, WONG POTATOES INC., MLM PROPERTY LLC, GREGORY DREW HEATON, AND SCOTT BEDFORD
Use: SUPPLEMENTAL IRRIGATION USE on 57.5 ACRES
Priority Date: MARCH 1, 2005
Rate: 0.72 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-EIGHTIETH of one cubic foot per second, and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.
Period of Use: APRIL 1 THROUGH OCTOBER 31
Source: WELL 1 (KLAM 53043) in DODDS HOLLOW BASIN

Authorized Point Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	11 E	WM	7	SW NE	WELL 1 - 1360 FEET SOUTH AND 1860 FEET WEST FROM THE NE CORNER OF SECTION 7

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	11 E	WM	16	NE NE	6	15.2
41 S	11 E	WM	16	NW NE		6.4
41 S	11 E	WM	16	SW NE		1.7
41 S	11 E	WM	16	SE NE	10	32.7
41 S	11 E	WM	16	NE SE		1.5
Total						57.5

8. Temporary Transfer Application T-12918 proposes to move the authorized point of appropriation approximately 2.70 miles from the authorized point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	11 E	WM	16	NE SE	WELL 3 - 1240 FEET NORTH AND 30 FEET WEST FROM THE SE CORNER OF SECTION 15

Temporary Drought Transfer Review Criteria

9. 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.

10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.

11. The Governor issued an executive order on March 13, 2018, declaring a state of drought emergency in Klamath 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.
12. The proposed changes would not result in enlargement of the rights.
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 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.

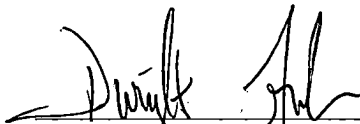
Conclusions of Law

The temporary change in point of appropriation proposed in Temporary Drought Transfer Application T-12918 is not consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

Now, therefore, it is ORDERED:

1. The temporary change in point of appropriation proposed in Temporary Drought Transfer Application T-12918 is denied.

Dated at Salem, Oregon this NOV 14 2018



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

Mailing Date: NOV 15 2018