

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-13402, Klamath County)	EMERGENCY USE DROUGHT FOR A
)	TEMPORARY ADDITIONAL 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

DANIEL CHIN
17817 CHEYNE RD
KLAMATH FALLS, OR 97603

SCOTT BEDFORD
1231 TULLOCH DR
TRACY, CA 95377

WONG POTATOES INC.
17600 HIGHWAY 39
KLAMATH FALLS, OR 97603

GREGORY DREW HEATON
PO BOX 210
MERRILL, OR 97633

Findings of Fact

1. On April 1, 2020, MLM PROPERTY, LLC, SCOTT BEDFORD, DANIEL CHIN, WONG POTATOES INC., AND GREGORY DREW HEATON, filed an application for a temporary additional point of appropriation under Permit G-16156 for the remainder of the 2020 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-13402.
2. Notice of the application for transfer was published on April 14, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

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.

3. On February 12, 2018, the Department approved a partial assignment of Permit G-16156 from Daniel Chin to Gregory Drew Heaton, Scott Bedford, MLM Property, LLC, and Wong Potatoes, Inc.
4. On July 26, 2019, the Department approved an extension of time for complete application of water to October 1, 2024.
5. On January 14, 2020, MLM PROPERTY LLC, filed an application for partial assignment of Water Right Permit G-16156 and requested issuance of replacement permits. The Department assigned the application number T-13375.
6. 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 of 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

7. Temporary Drought Transfer Application T-13402 proposes an additional point of appropriation approximately 2.70 miles from the authorized points 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 16

Temporary Drought Transfer Review Criteria

8. 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.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
10. The Governor issued an executive order on March 2, 2020, 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.
11. The proposed changes would not result in enlargement of the rights.
12. 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.

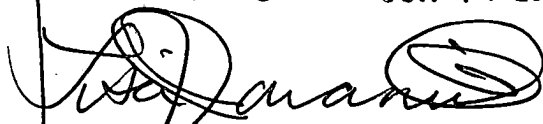
Conclusions of Law

The temporary additional point of appropriation proposed in Temporary Drought Transfer Application T-13402 is consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

Now, therefore, it is ORDERED:

1. The temporary additional point of appropriation proposed in Temporary Drought Transfer Application T-13402 is approved.
2. The approval of this temporary drought transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
3. The proposed additional point of appropriation (WELL 3), shall revert to the authorized points of appropriation (WELL 1 and WELL 2) at the end of the 2020 irrigation season or the end of the Governor's declared drought, whichever occurs first.
4. The use of the remaining water right described by Permit G-16156 shall continue to be in accordance with the terms and conditions of Permit G-16156.

Dated in Salem, Oregon on **JUN 17 2020**



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

Mailing Date: **JUN 18 2020**