

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application)
T-11853, Klamath County)
)
 FINAL ORDER APPROVING AN
 EMERGENCY USE DROUGHT
 TEMPORARY CHANGE IN PLACE OF
 USE AND POINT OF DIVERSION

Authority

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. OAR Chapter 690, Division 019 implements the statutes and provides the Department's procedures and criteria for evaluating drought transfer applications.

Applicant

KNOLL RANCH LLC
5429 REEDER RD
KLAMATH FALLS, OR 97603

Findings of Fact

1. On June 25, 2014, KNOLL RANCH LLC filed an application to temporarily change the place of use and point of diversion for a portion of Claim KA-1000 for the remainder of the 2014 irrigation season or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-11853.
2. The applicant has provided consent by deeded landowner of the "from" lands.
3. The applicant has indicated that portions of Water Right Certificate 67133 (Application S-55994) and T-11266 are located on portions of the "to" lands. In addition, the Department has found that Water Right Certificate 65658 overlies a portion of the "from" lands.
4. Notice of the application for transfer was published on July 1, 2014 pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. The portion of the claim to be temporarily transferred is as follows:
Claim: KA 1000 in the names of DON BUFFINGTON; WINEMA HUNTING LODGE; ET. AL. (described in Partial Order of Determination, entered March 7, 2013 at Sp. Ord. Vol. 89, Page 71)
Use: IRRIGATION OF 383.5 ACRES
Priority Date: MAY 19, 1905

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.

Season of use: MARCH 1 TO OCTOBER 31
Rate: 1/40 cubic foot per second per acre
Duty: 3.5 acre-feet per acre irrigated during the irrigation season of each year
Source: UPPER KLAMATH LAKE within the KLAMATH RIVER BASIN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
37 S	8 E	WM	25	NE NE	4	NONE GIVEN

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
37 S	8 E	WM	25	SE NE	5	7.6
37 S	8 E	WM	25	NE SE	6	14.8
37 S	8 E	WM	25	SE SE	8	14.0
37 S	8 E	WM	36	NE NE	1	12.0
37 S	8 E	WM	36	SE NE	2	10.2
37 S	8 E	WM	36	NE SE	3	8.4
37 S	8 E	WM	36	SE SE	4	1.1
37 S	9 E	WM	30	SW NW	6	6.5
37 S	9 E	WM	30	NW SW	6	34.6
37 S	9 E	WM	30	SW SW	7	49.7
37 S	9 E	WM	30	SE SW	8	11.4
37 S	9 E	WM	31	NW NE	7	2.8
37 S	9 E	WM	31	SW NE	2	3.1
37 S	9 E	WM	31	SW NE	12	9.5
37 S	9 E	WM	31	NE NW	8	34.0
37 S	9 E	WM	31	NW NW	9	51.2
37 S	9 E	WM	31	SW NW	10	44.0
37 S	9 E	WM	31	SE NW	11	42.3
37 S	9 E	WM	31	NE SW	4	0.8
37 S	9 E	WM	31	NE SW	11	3.7
37 S	9 E	WM	31	NW SW	13	21.8
Total						383.5

6. Temporary Drought Transfer Application T-11853 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
37 S	8 E	WM	1	SE SE	1	1.5
37 S	8 E	WM	12	NE NE	1	4.0
37 S	8 E	WM	12	SW SE	4	7.7
37 S	8 E	WM	12	SE SE	4	38.7
37 S	8 E	WM	13	NE NE		39.8
37 S	8 E	WM	13	NW NE	1	14.0
37 S	8 E	WM	13	SE NE		11.3
37 S	9 E	WM	6	NE SW		2.2
37 S	9 E	WM	6	NW SW	6	25.8
37 S	9 E	WM	6	SW SW	7	45.9
37 S	9 E	WM	6	SE SW		22.3
37 S	9 E	WM	7	NE NW		38
37 S	9 E	WM	7	NW NW	1	42.9

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
37 S	9 E	WM	7	SW NW	2	5.4
37 S	9 E	WM	7	SE NW		12.0
37 S	9 E	WM	7	SW SW		30.1
37 S	9 E	WM	18	NW NW		35.5
37 S	9 E	WM	18	SW NW		6.4
Total						383.5

7. Temporary Drought Transfer Application T-11853 proposes to temporarily move the authorized point of diversion approximately 9200 feet North to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
37 S	8 E	WM	13	SW NE	2	1850 FEET SOUTH AND 2400 FEET EST FROM THE NE CORNER OF SECTION 13.

Temporary Transfer Review Criteria

8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing claim is present.
9. The Governor issued an executive order on February 13, 2014, 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.
10. The proposed changes would not result in enlargement of the claims.
11. 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

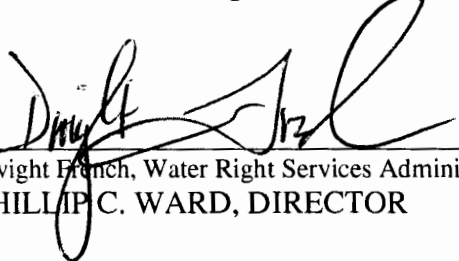
The temporary change in place of use proposed in Temporary Drought Transfer Application T-11853 is consistent with the requirements of ORS 536.750 and OAR 690-019-0055.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and point of diversion proposed in Temporary Drought Transfer Application T-11853 are approved.
2. The former place of use **shall not** be irrigated during the remainder of the 2014 irrigation season or until the end of the Governor’s declared drought, whichever occurs first.
3. The portions of Water Right Certificate 65658 located on the “from” lands and Certificate 67133 and T-11266 located on the “to” lands shall not be exercised during the duration of this transfer.

4. 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 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.
5. The approval of this temporary drought transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
6. The use of water at the temporary places of use authorized by this transfer shall be in accordance with the terms and conditions of KA-1000.
7. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
8. The proposed change in place of use shall revert to the authorized place of use at the end of the 2014 irrigation season or the end of the Governor's declared drought, whichever occurs first.
9. The proposed change in point of diversion shall revert to the authorized point of diversion at the end of the 2014 irrigation season or the end of the Governor's declared drought, whichever occurs first.
10. The use of the remaining claim described by KA-1000 shall continue to be in accordance with the terms and conditions of Claim KA-1000.

Dated at Salem, Oregon this 10 day of July, 2014.



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing Date: JUL 15 2014