

Application for Water Right Transfer Evidence of Use Affidavit



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more spacing. Supporting documentation must be attached.

1. My knowledge of the exercise or status of the water right is based on (check one):
 Personal observation Professional expertise
2. I attest that:
 Water was used during the previous five years on the **entire** place of use for Certificate # KA-67 (T-13673); OR
 My knowledge is specific to the use of water at the following locations within the last five years:

OR

- Confirming Certificate # _____ has been issued within the past five years; **OR**
- Part or all of the water right was leased instream at some time within the last five years. The instream lease number is: _____ (Note: If the entire right proposed for transfer was not leased, additional evidence of use is needed for the portion not leased instream.); **OR**
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.
- Water has been used at the actual current point of diversion or appropriation for more than 10 years for Certificate # _____ (For Historic POD/POA Transfers)

(continues on reverse side)

3. The water right was used for: (e.g., crops, pasture, etc.): _____

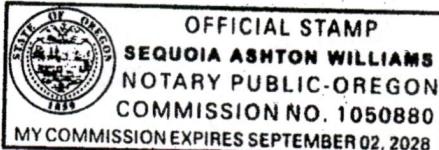
4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.


Signature of Affiant

12/23/2025

Date

Signed and sworn to (or affirmed) before me this 23 day of December, 2025.





Notary Public for Oregon

My Commission Expires: 9/2/2028

Supporting Documents	Examples
<input checked="" type="checkbox"/> Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of confirming water right certificate that shows issue date
<input type="checkbox"/> Copies of receipts from sales of irrigated crops or for expenditures related to use of water	<ul style="list-style-type: none">Power usage records for pumps associated with irrigation useFertilizer or seed bills related to irrigated cropsFarmers Co-op sales receipt
<input type="checkbox"/> Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	<ul style="list-style-type: none">District assessment records for water deliveredCrop reports submitted under a federal loan agreementBeneficial use reports from districtIRS Farm Usage Deduction ReportAgricultural Stabilization PlanCREP Report
<input type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph	Multiple photos can be submitted to resolve different areas of a water right. If the photograph does not print with a "date stamp" or without the source being identified, the date of the photograph and source should be added. Sources for aerial photos: OSU – www.oregonexplorer.info/imagery OWRD – www.wrd.state.or.us Google Earth – earth.google.com TerraServer – www.terraserver.com
<input type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

Re: [EXTERNAL] Re: Transfer Application submission

From Pilson, Stephen <stephen_pilson@fws.gov>
Date Tue 12/23/2025 8:47 AM
To SMITH Joan M * WRD <Joan.M.SMITH@water.oregon.gov>
Cc Esralew, Rachel <Rachel_Esralew@fws.gov>

 2 attachments (492 KB)

Evidence of Use Affidavit_notarized_correction.pdf; T-13673 Revised Final Order.pdf;

Thank you, Joan. Here is a revised affidavit and supporting water right document showing issue date within last five years.

Steve Pilson
Hydrologist/GIS Specialist
Pacific Regions Water Resources Branch
(ID, OR, WA, HI, CA, NV)

U.S. Fish & Wildlife Service
National Wildlife Refuge System
Regional Office
Portland, OR
503-231-2097 (office)
503-869-9091 (cell)

From: SMITH Joan M * WRD <Joan.M.SMITH@water.oregon.gov>
Sent: Tuesday, December 23, 2025 8:39 AM
To: Pilson, Stephen <stephen_pilson@fws.gov>
Cc: Esralew, Rachel <Rachel_Esralew@fws.gov>
Subject: Re: [EXTERNAL] Re: Transfer Application submission

Yes, please submit the new affidavit.

JS

Joan Smith
My in office hours are Monday through Thursday from 8:00 a.m. to 5:30 p.m.
My direct line is 503-986-0892

From: Pilson, Stephen <stephen_pilson@fws.gov>
Sent: Tuesday, December 23, 2025 8:35 AM
To: SMITH Joan M * WRD <Joan.M.SMITH@water.oregon.gov>
Cc: Esralew, Rachel <Rachel_Esralew@fws.gov>
Subject: Re: [EXTERNAL] Re: Transfer Application submission

You don't often get email from stephen_pilson@fws.gov. [Learn why this is important](#)

Hi Joan,

We noticed a typo in my email (copied from our submitted affidavit of use), the transfer application is for KA-67, not KA-76. Since the affidavit lists the wrong claim number (however, the transfer number T-13673 is correct), should we resubmit our affidavit for clarity? I can sign as the acting water resources branch chief in Rachel's absence.

Thank you,

Steve Pilson

Hydrologist/GIS Specialist

Pacific Regions Water Resources Branch

(ID, OR, WA, HI, CA, NV)

U.S. Fish & Wildlife Service

National Wildlife Refuge System

Regional Office

Portland, OR

503-231-2097 (office)

503-869-9091 (cell)

From: SMITH Joan M * WRD <Joan.M.SMITH@water.oregon.gov>

Sent: Monday, December 22, 2025 3:50 PM

To: Pilson, Stephen <stephen_pilson@fws.gov>; wrd_dl_transferteam <wrd_dl_transferteam@water.oregon.gov>

Cc: Esralew, Rachel <Rachel_Esralew@fws.gov>; Williamson, Dana A <dana_williamson@fws.gov>; GARRETT

James R * WRD <james.r.garrett@water.oregon.gov>

Subject: [EXTERNAL] Re: Transfer Application submission

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Steve, I will print up the application materials you sent and let you know your Transfer number once James has processed the payment.

Thank you

Joan Smith

My in office hours are Monday through Thursday from 8:00 a.m. to 5:30 p.m.

My direct line is 503-986-0892

From: Pilson, Stephen <stephen_pilson@fws.gov>

Sent: Monday, December 22, 2025 3:26 PM

To: wrd_dl_transferteam <wrd_dl_transferteam@water.oregon.gov>

Cc: Esralew, Rachel <Rachel_Esralew@fws.gov>; Williamson, Dana A <dana_williamson@fws.gov>; GARRETT

James R * WRD <james.r.garrett@water.oregon.gov>

Subject: Transfer Application submission

Some people who received this message don't often get email from stephen_pilson@fws.gov. [Learn why this is important](#)

Hello,

I am submitting the attached materials as electronic submittal of the U.S. Fish and Wildlife Service's transfer application for the Certificate KA-76 (T-13673).

Please let me know if there are any questions or missing items.

Thank you,
Steve Pilson
Hydrologist/GIS Specialist
Pacific Regions Water Resources Branch
(ID, OR, WA, HI, CA, NV)

U.S. Fish & Wildlife Service
National Wildlife Refuge System
Regional Office
Portland, OR
503-231-2097 (office)
503-869-9091 (cell)

**Application for Klamath Basin Adjudication
Determined Claim***
Temporary Transfer
Part 1 of 4 – Minimum Requirements Checklist



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

This temporary transfer application will be returned if Parts 1 through 4 and all required attachments are not completed and included.

For questions, please call (503) 986-0900, and ask for Transfer Section.

FOR TEMPORARY TRANSFER APPLICATIONS AUTHORIZED UNDER SB 206

Check all items included with this application. (N/A = Not Applicable)

Part 1 – Completed Minimum Requirements Checklist.

Part 2 – Completed Temporary Transfer Application Map Checklist.

Part 3 – Completed Applicant Information and Signature.

Part 4 – Information about Transferred Water Rights/Claims: **How many water rights are to be transferred?** 1 **List them here:** KA-67
Please include a separate Part 4 for each water right/determined claim and/or deeded land owner. (See instructions on page 7)

N/A For standard Temporary Transfer (one to five years) **Begin Year** 2026 **End Year** 2031.

Application Fee - payable by check to the Oregon Water Resources Department, the online fee calculator is located:
https://apps.wrd.state.or.us/apps/wr/wr_transfer_calculator/temporary_transfer.aspx

Attachments:

Completed Temporary Transfer Application Map.

Completed Evidence of Use Affidavit and supporting documentation.

Current recorded deed for the land **from** which the authorized place of use is temporarily being moved.

N/A Consent from the deeded land owner(s) if not the applicant, Part 4 page 4.

N/A Land Use Information Form with approval and signature. Not required if water is to be diverted, conveyed, and/or used only on federal lands or if **all** of the following apply: a) a change in place of use only, b) no structural changes, c) the use of water is for irrigation only, and d) the use is located within an irrigation district or an exclusive farm use zone.

* A Determined Claim is a CORRECTED PARTIAL ORDER OF DETERMINATION, Recorded with Klamath Circuit Court on February 28, 2014.

(For Staff Use Only)

WE ARE RETURNING YOUR APPLICATION FOR THE FOLLOWING REASON(S):

Application fee not enclosed/insufficient Map not included or incomplete
 Land Use Form not enclosed or incomplete
 Additional signature(s) required Part _____ is incomplete

Other/Explanation _____

Staff: _____ Phone: _____ Date: _____ / _____ / _____

Part 2 of 4 – Temporary Transfer Application Map Checklist

Your temporary transfer application will be returned
if any of the map requirements listed below are not met.

Please be sure that the temporary transfer application map you submit includes all the required items and matches the existing water right/claim map. Check all boxes that apply.

- N/A If **more than three** water rights/claims are involved, separate maps are needed for each water right/claim.
- Permanent quality printed with dark ink on good quality paper.
- The size of the map can be 8½ x 11 inches, 8½ x 14 inches, 11 x 17 inches, or up to 30 x 30 inches. For 30 x 30 inch maps, one extra copy is required.
- A north arrow, a legend, and scale.
- The scale of the map must be: 1 inch = 400 feet, 1 inch = 1,320 feet, the scale of the Klamath Adjudication Maps (the map associated with the water right/determined claim), the scale of the county assessor map if the scale is not smaller than 1 inch = 1,320 feet, or a scale that has been pre-approved by the Department.
- Township, Range, Section, ¼ ¼, DLC, Government Lot, and other recognized public land survey lines.
- Tax lot boundaries (property lines) are required. Tax lot numbers are recommended.
- Major physical features including rivers and creeks showing direction of flow, lakes and reservoirs, roads, and railroads.
- Major water delivery system features from the point(s) of diversion/appropriation such as main pipelines, canals, and ditches.
- Existing place of use that includes separate hachuring for each water right/claim, priority date, and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions. If less than the entirety of the water right/claim is being changed, a separate hachuring is needed for lands left unchanged.
- N/A Proposed temporary place of use that includes separate hachuring for each water right/claim, priority date, and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions.
- Existing point(s) of diversion with distance and bearing or coordinates from a recognized survey corner. (This information for a determined claim can be found the POD Location Table as listed in the Claim Description of its CORRECTED PARTIAL ORDER OF DETERMINATION).
- N/A If you are proposing a change in point(s) of diversion to convey water to the new temporary place of use, show the proposed location and label it clearly with distance and bearing or coordinates. If GPS coordinates are used, latitude-longitude coordinates may be expressed as either degrees-minutes-seconds with at least one digit after the decimal (example – 42°32'15.5") or degrees-decimal with five or more digits after the decimal (example – 42.53764°).

Part 3 of 4 – Applicant Information and Signature

Applicant Information (District)

APPLICANT/IRRIGATION DISTRICT U.S. Fish and Wildlife Service, Klamath National Wildlife Refuge Complex			PHONE NO. 541-892-6654	ADDITIONAL CONTACT NO.
ADDRESS 4009 Hill Road			FAX NO.	
CITY Tulelake	STATE CA	ZIP 96134	E-MAIL Kenneth_Griggs@fws.gov	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

Agent Information – The agent is authorized to represent the applicant in all matters relating to this application.

AGENT/BUSINESS NAME Rachel Esralew			PHONE NO. 503-231-2348	ADDITIONAL CONTACT NO.
ADDRESS 911 NE 11th Avenue			FAX NO.	
CITY Portland	STATE OR	ZIP 97232	E-MAIL Rachel_Esralew@fws.gov	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

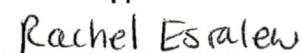
Explain in your own words what you propose to accomplish with this transfer application; and why:

The U.S. Fish and Wildlife Service has a need to provide additional irrigation water supply to Lower Klamath National Wildlife Refuge, while also improving aquatic habitat near Upper Klamath National Wildlife by keeping water from the Wood River and Crooked Creek instream. The transfer will have multiple benefits, including improving fish and wildlife habitat, and water quality. The ability to irrigate wetland plants from this transfer to the refuge during the irrigation season is essential to provide limited spring, summer, and early fall habitat, and prevent disease outbreak by providing refuge for migratory birds and other waterfowl during dry conditions. Species that utilize habitat of Upper Klamath Lake will also benefit from this transfer through improvements to water and habitat quality.
Applicant would not irrigate the real property to which Claim KA-67 is appurtenant.

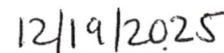
I (we) affirm that the information contained in this application is true and accurate.



Applicant signature



Print Name (and Title if applicable)



Date

Applicant signature

Print Name (and Title if applicable)

Date

Is the applicant, as listed in Part 4 of 4, Table 2, the sole owner of the land on which the water right/claim, or portion thereof, proposed for transfer is located? Yes No

Applicant is the owner of base determined claim KA-67 and owns TO lands, see attached deed.

IF NO, include one of the following for each landowner:

- Landowner(s) signature on application Part 4 of 4 Table 2
- Affidavit(s) of Consent from Landowner(s) (OWRD form)
- Water right conveyance agreement and a copy of the recorded deed for the landowner at the time the water right/claim was conveyed

Check here if any of the water rights/claims proposed for transfer are or will be located within or served by an irrigation or other water district AND the district is not the applicant. (Tip: Complete and attach Supplemental Form D.)

DISTRICT NAME	ADDRESS	
CITY	STATE	ZIP

Check here if water for any of the rights supplied under a water service agreement or other contract for stored water with a federal agency or other entity.

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

 To meet State Land Use Consistency Requirements, you must list all local governments (each county, city, municipal corporation, or tribal government) within whose jurisdiction water will be diverted, conveyed or used.

ENTITY NAME Klamath County	ADDRESS 305 Main Street	
CITY Klamath Falls	STATE OR	ZIP 97626

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

Part 4 of 4 – Water Right/Claim Information

Please use a separate Part 4 for each water right/claim being changed. See instructions on page 6, to copy and paste additional Part 4s, or to add additional rows to tables within the form.

CERTIFICATE # KA-67

Description of on Farm Water Delivery System

System capacity: >30.01 cubic feet per second (cfs) OR
gallons per minute (gpm)

Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use. See Attachment 1

Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD)

(Note: POD descriptions for determined claims are listed in the Claim Description portion of the CORRECTED PARTIAL ORDER OF DETERMINATION.)

POD Name	Is this POD Authorized on the Water Right/Claim or is it Proposed?	Twp	Rng	Sec	1/4's	Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)	
Wood River POD 1 (Headgate)	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed	34	S	7.5	E	14	NW NW 5	30 FEET SOUTH AND 2450 FEET WEST FROM N ¹ / ₄ CORNER, SECTION 14
Wood River POD 2 (Pump)	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed	34	S	7.5	E	14	NW NW 5	45 FEET SOUTH AND 2450 FEET WEST FROM N ¹ / ₄ CORNER, SECTION 14
Crooked Creek POD	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed	34	S	7.5	E	14	NW SE	1510 FEET SOUTH AND 2210 FEET WEST FROM SE CORNER, SECTION 13
Ady/Central Canal	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed	40	S	8	E	15	NE NW	1220 FEET SOUTH AND 2743 FEET WEST FROM NE CORNER, SECTION 15

Check all type(s) of temporary change(s) proposed below (change "CODES" are provided in parentheses):

Place of Use (POU)

Point of Diversion (POD)
(only if necessary to convey water to the
new temporary place of use)

For Place of Use Changes

Are there other determined claims, certificates, water use permits or ground water registrations associated with the "from" or the "to" lands? Yes No

IF YES, list the determined claims, certificate, water use permit, or ground water registration numbers: See Attachment 1

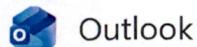
Pursuant to ORS 540.525, any “layered” water use such as an irrigation right that is supplemental to a primary right proposed for temporary transfer can be included in the transfer or remain unused on the authorized place of use. If the primary water right does not revert soon enough to allow use of the supplemental right within five years, the supplemental right shall become subject to cancellation for nonuse under ORS 540-610.

Please complete Table 2 for each landowner and/or water right/claim involved in the transfer. Refer to instructions to modify the table.
Do you have questions about how to fill-out the tables? Contact the Department at 503-986-0900 and ask for Transfer Staff.

Table 2. Description of Temporary Changes to Water Right/Claim Number KA-67 (see EXHIBIT A-1 for "from", EXHIBIT B-1 for "to")

List only the part of the right that will be changed. For the acreage in each $\frac{1}{4}$ $\frac{1}{4}$, list the change proposed. If more than one change, specify the acreage associated with each change. If more than one POD, specify the acreage associated with each POD.

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES									Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.										
Twp	Rng	Sec	$\frac{1}{4}$	$\frac{1}{4}$	Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Water Right/Claim	POD(s) (name or # from Table 1)	Priority Date	Twp	Rng	Sec	$\frac{1}{4}$	$\frac{1}{4}$	Tax Lot	Gvt Lot or DLC	Acres	POD(s) to be used (from Table 1)	Priority Date
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Transfer Application submission

From Pilson, Stephen <stephen_pilson@fws.gov>

Date Mon 12/22/2025 3:30 PM

To wrd_dl_transferteam <wrd_dl_transferteam@water.oregon.gov>

Cc Esralew, Rachel <Rachel_Esralew@fws.gov>; Williamson, Dana A <dana_williamson@fws.gov>; GARRETT James R * WRD <james.r.garrett@water.oregon.gov>

0 9 attachments (11 MB)

EXHIBIT A-1 FROM Map.pdf; EXHIBIT B-1 Place of Use Map_ANSI_C UPDATE.pdf; EXHIBIT C-1 From and To Map_lettersize.pdf; SB206_KBA_Temp_Transfer_App_Any_Claim.pdf; Transfer Fee Calculation for Temporary Transfer.pdf; 20251219_CoverLetter_FWS_OWRD_KA67TempTransfer_RE.pdf; ODFW to OWRD - Support for Water Transfer to LKNWR.pdf; Attachment 1.pdf; Evidence of Use Affidavit_notarized.pdf;

Some people who received this message don't often get email from stephen_pilson@fws.gov. [Learn why this is important](#)

Hello,

I am submitting the attached materials as electronic submittal of the U.S. Fish and Wildlife Service's transfer application for the Certificate KA-76 (T-13673).

Please let me know if there are any questions or missing items.

Thank you,

Steve Pilson

Hydrologist/GIS Specialist

Pacific Regions Water Resources Branch

(ID, OR, WA, HI, CA, NV)

U.S. Fish & Wildlife Service

National Wildlife Refuge System

Regional Office

Portland, OR

503-231-2097 (office)

503-869-9091 (cell)

Application for Water Right Transfer Evidence of Use Affidavit



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more spacing. Supporting documentation must be attached.

I, Stephen Pilson _____, in my capacity as Water Resources Branch Chief, Agent

mailing address 911 NE 11th Avenue. Portland, OR 97232

telephone number (503) 231-6120, being first duly sworn depose and say:

1. My knowledge of the exercise or status of the water right is based on (check one):
 Personal observation Professional expertise
2. I attest that:
 Water was used during the previous five years on the **entire** place of use for Certificate # KA-67 (T-13673); OR
 My knowledge is specific to the use of water at the following locations within the last five years:

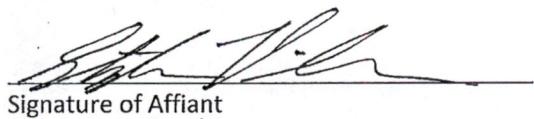
OR

- Confirming Certificate # _____ has been issued within the past five years; **OR**
- Part or all of the water right was leased instream at some time within the last five years. The instream lease number is: _____ (Note: If the entire right proposed for transfer was not leased, additional evidence of use is needed for the portion not leased instream.); **OR**
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.
- Water has been used at the actual current point of diversion or appropriation for more than 10 years for Certificate # _____ (For Historic POD/POA Transfers)

(continues on reverse side)

3. The water right was used for: (e.g., crops, pasture, etc.): _____

4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.

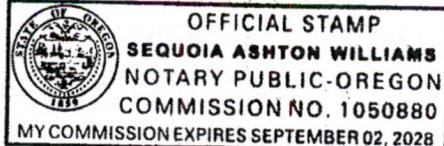


Signature of Affiant

12/23/2025

Date

Signed and sworn to (or affirmed) before me this 23 day of December, 2025.



Notary Public for Oregon

My Commission Expires: 9/2/2028

Supporting Documents	Examples
<input checked="" type="checkbox"/> Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of confirming water right certificate that shows issue date
<input type="checkbox"/> Copies of receipts from sales of irrigated crops or for expenditures related to use of water	<ul style="list-style-type: none">Power usage records for pumps associated with irrigation useFertilizer or seed bills related to irrigated cropsFarmers Co-op sales receipt
<input type="checkbox"/> Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	<ul style="list-style-type: none">District assessment records for water deliveredCrop reports submitted under a federal loan agreementBeneficial use reports from districtIRS Farm Usage Deduction ReportAgricultural Stabilization PlanCREP Report
<input type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph	Multiple photos can be submitted to resolve different areas of a water right. If the photograph does not print with a "date stamp" or without the source being identified, the date of the photograph and source should be added. Sources for aerial photos: OSU – www.oregonexplorer.info/imagery OWRD – www.wrd.state.or.us Google Earth – earth.google.com TerraServer – www.terraserver.com
<input type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application)
T-13673, Klamath County)
)
)

REVISED FINAL ORDER APPROVING
TEMPORARY CHANGES IN PLACE OF USE
AND POINTS OF DIVERSION

Authority

Oregon Revised Statute (ORS) 540.505 to 540.580 and 445 Oregon Laws (2015) Sections 1 and 2 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.

ORS 183.484(4) governs orders on reconsideration after a petition for review is filed.

Applicant

THOMAS FAMILY LIMITED PARTNERSHIP
2500 VENTURE OAKS WAY, SUITE 175
SACRAMENTO, CA 95833

Findings of Fact

1. On April 20, 2021, THOMAS FAMILY LIMITED PARTNERSHIP filed an application to temporarily change the place of use and points of diversion to serve the proposed place of use under Klamath Basin Adjudication Determined Claim KA-67 for a period of 5 years. The Department assigned the application number T-13673.
2. On April 26, 2021, the applicant's agent submitted a revised Table 1, adding the North Canal as a proposed point of diversion.
3. Notice of the application for transfer was published on May 4, 2021, pursuant to OAR 690-380-4000. The Department received two comments 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.

4. On July 13, 2021, the Department determined that there were some acres that cannot be dried up, and that those lands should be excluded from the transfer.
5. On August 9, 2021, the Department received revised tables and maps, removing 248.7 acres from the transfer.
6. On August 26, 2021, the Department issued a Final Order as evidenced in (Special Order Volume 121, Page 433), approving temporary changes in place of use and points of diversion under T-13673.
7. On October 4, 2021, the Department reconsidered its final order and determined a revised Final Order was necessary, to include a change in point of diversion condition.
8. The claim to be temporarily transferred is as follows:

Claim: KA-67 in the name of THOMAS FAMILY LIMITED PARTNERSHIP
Use: IRRIGATION of 1251.8 ACRES WITH INCIDENTAL LIVESTOCK WATERING OF 3400 HEAD, BEING 590.3 ACRES FROM WOOD RIVER PODS 1 AND 2, AND 661.5 ACRES FROM CROOKED CREEK POD

Priority Date: OCTOBER 14, 1864

Rate: 25.04 CUBIC FEET PER SECOND (CFS) MEASURED AT THE POINT OF DIVERSION, BEING 12.02 CFS FROM POINTS OF DIVERSION (POD) #1 AND #2, AND 13.02 CFS FROM POD #3; THE RATE OF USE FOR IRRIGATION MAY NOT EXCEED 1/50 OF ONE CUBIC FOOT PER SECOND PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR

Duty: 3.0 ACRE-FEET PER ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR

Season of use: APRIL 1 THROUGH OCTOBER 1

Sources: POD #1 AND #2: WOOD RIVER, tributary to AGENCY LAKE; POD#3: CROOKED CREEK, tributary to AGENCY LAKE

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
34 S	7.5 E	WM	14	NW NW	5	WOOD RIVER POD 1 (HEADGATE) - 30 FEET SOUTH AND 2450 FEET WEST FROM THE NW CORNER OF SECTION 14
34 S	7.5 E	WM	14	NW NW	5	WOOD RIVER POD 2 (PUMP) - 45 FEET SOUTH AND 2450 FEET WEST FROM THE NW CORNER OF SECTION 14
34 S	7.5 E	WM	13	NW SE		CROOKED CREEK POD - 1510 FEET NORTH AND 2210 FEET WEST FROM THE SE CORNER OF SECTION 13

Authorized Place of Use:

IRRIGATION - POD #1 AND POD #2						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
34 S	7.5 E	WM	11	SE SW		22.5
34 S	7.5 E	WM	11	SW SE		27.1
34 S	7.5 E	WM	14	NE NE		1.6
34 S	7.5 E	WM	14	NW NE		37.6
34 S	7.5 E	WM	14	SW NE		37.6
34 S	7.5 E	WM	14	SE NE		16.5
34 S	7.5 E	WM	14	NE NW		40.0
34 S	7.5 E	WM	14	NW NW	5	22.9
34 S	7.5 E	WM	14	SW NW	6	16.6
34 S	7.5 E	WM	14	SE NW		40.0
34 S	7.5 E	WM	14	NE SW	7	43.1
34 S	7.5 E	WM	14	SE SW	8	10.9
34 S	7.5 E	WM	14	NE SE		11.5
34 S	7.5 E	WM	14	NW SE		40.0
34 S	7.5 E	WM	14	SW SE	9	33.9
34 S	7.5 E	WM	14	SE SE		13.6
34 S	7.5 E	WM	23	NE NE		32.4
34 S	7.5 E	WM	23	NW NE	1	9.8
34 S	7.5 E	WM	23	SE NE	2	28.5
34 S	7.5 E	WM	23	NE SE	3	5.7
34 S	7.5 E	WM	24	NW NW		6.0
34 S	7.5 E	WM	24	SW NW		37.2
34 S	7.5 E	WM	24	NE SW		8.0
34 S	7.5 E	WM	24	NW SW	6	37.7
34 S	7.5 E	WM	24	SE SW	7	9.6
						Total 590.3

IRRIGATION - POD #3						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
34 S	7.5 E	WM	11	SW SE		12.9
34 S	7.5 E	WM	11	SE SE		39.6
34 S	7.5 E	WM	12	SW SW		39.2
34 S	7.5 E	WM	12	SE SW		30.4
34 S	7.5 E	WM	13	NW NE	4	2.2
34 S	7.5 E	WM	13	SW NE	6	12.3
34 S	7.5 E	WM	13	SE NE	7	6.2
34 S	7.5 E	WM	13	NE NW		35.6
34 S	7.5 E	WM	13	NW NW		40.0
34 S	7.5 E	WM	13	SW NW		40.0
34 S	7.5 E	WM	13	SE NW		40.0
34 S	7.5 E	WM	13	NE SW		30.4
34 S	7.5 E	WM	13	NW SW		40.0
34 S	7.5 E	WM	13	SW SW		3.4
34 S	7.5 E	WM	13	SE SW		10.6
34 S	7.5 E	WM	13	NE SE	9	0.5

IRRIGATION – POD #3						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
34 S	7.5 E	WM	13	NW SE	10	9.6
34 S	7.5 E	WM	13	NW SE	11	14.0
34 S	7.5 E	WM	13	NW SE	12	3.7
34 S	7.5 E	WM	13	SW SE	13	3.9
34 S	7.5 E	WM	13	SW SE	14	7.9
34 S	7.5 E	WM	14	NE NE		38.4
34 S	7.5 E	WM	14	NW NE		2.4
34 S	7.5 E	WM	14	SE NE		24.5
34 S	7.5 E	WM	14	NE SE		6.6
34 S	7.5 E	WM	24	NE NE		4.8
34 S	7.5 E	WM	24	NW NE		37.4
34 S	7.5 E	WM	24	SW NE		37.5
34 S	7.5 E	WM	24	SE NE		0.9
34 S	7.5 E	WM	24	NE NW		11.2
34 S	7.5 E	WM	24	SE NW		13.8
34 S	7.5 E	WM	24	NE SW		6.0
34 S	7.5 E	WM	24	NE SE		0.3
34 S	7.5 E	WM	24	NW SE		22.1
34 S	7.5 E	WM	24	SW SE		29.1
34 S	7.5 E	WM	24	SE SE		1.9
34 S	7.5 E	WM	25	NE NW		2.2
					Total	661.5

9. Temporary Transfer Application T-13673 proposes to temporarily change the place of use of the right to:

IRRIGATION – WOOD RIVER				
Twp	Rng	Mer	Unit	Acres
48 N	2 E	MDM	3A – UNSURVEYED	224.0
48 N	2 E	MDM	6A – UNSURVEYED	366.3
				Total 590.3

IRRIGATION – CROOKED CREEK					
Twp	Rng	Mer	Unit	Q-Q	Acres
48 N	2 E	MDM	3A – UNSURVEYED		2.2
48 N	2 E	MDM	3A – UNSURVEYED		6.5
48 N	2 E	MDM	3A – UNSURVEYED		10.9
48 N	2 E	MDM	3A – UNSURVEYED		12.7
48 N	2 E	MDM	3A – UNSURVEYED		18.8
48 N	2 E	MDM	3A – UNSURVEYED		21.5
48 N	2 E	MDM	3A – UNSURVEYED		60.1
48 N	2 E	MDM	3B1 – UNSURVEYED		25.9
48 N	2 E	MDM	3B1 – UNSURVEYED		51.9
48 N	2 E	MDM	3B1 – UNSURVEYED		69.3
48 N	2 E	MDM	3B1 – UNSURVEYED		72.7
48 N	2 E	MDM	3B2	NW SE	6.9
48 N	2 E	MDM	3B2 – UNSURVEYED		26.8
48 N	2 E	MDM	3B2 – UNSURVEYED		36.2

IRRIGATION – CROOKED CREEK					
Twp	Rng	Mer	Unit	Q-Q	Acres
48 N	2 E	MDM	3B2 - UNSURVEYED		72.2
48 N	2 E	MDM	3B2 - UNSURVEYED		74.4
48 N	2 E	MDM	3B2 - UNSURVEYED		92.5
			Total		661.5

10. A change in points of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13673 proposes to move the authorized points of diversion downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from original points of diversion in miles (mi.)
40 S	8 E	WM	2	NE NW	NORTH CANAL (ALTERNATE) – 316 FEET SOUTH AND 1964 FEET EAST FROM THE NW CORNER OF SECTION 2	42.2 mi.
40 S	8 E	WM	15	NE NW	ADY/CENTRAL CANAL (PRIMARY) - 1220 FEET SOUTH AND 2730 FEET WEST FROM THE NE CORNER OF SECTION 15	44.0 mi.

Temporary Transfer Review Criteria

11. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing claim is present.

12. The proposed changes would prevent the lands from which the water right is removed during the period of the temporary transfer from receiving water under the transferred claim, as required by ORS 540.523(7).

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 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 and points of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13673 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary change in place of use and change in points of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13673 is approved.

2. The former place of use **shall not** be irrigated as part of this claim during the 2021, 2022, 2023, 2024, and 2025 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2025 irrigation season. The authorization to use the new point of diversion shall be terminated concurrently.
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. 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 Claim KA-67.
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. The quantity of water diverted at the new points of diversion (North Canal (alternate) and Ady/Central Canal (primary)), shall not exceed the quantity of water lawfully available at the original points of diversion (Wood River POD 1(headgate), Wood River POD 2 (pump), and Crooked Creek POD).
9. 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.

Dated in Salem, Oregon on

DEC 27 2021



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

Mailing Date:

DEC 28 2021