

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

In the Matter of Transfer Application)	FINAL ORDER
T-12654, Wallowa County)	APPROVING A CHANGE
)	IN PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

STANGEL INDUSTRIES AND
MACHINE SHOP
PO BOX 157
ENTERPRISE, OR 97828
stangelllc@eoni.com

Findings of Fact

1. On April 28, 2017, STANGEL INDUSTRIES AND MACHINE SHOP filed an application to change the place of use under Certificate 3821. The Department assigned the application number T-12654.
2. Notice of the application for transfer was published on May 2, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On July 26, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12654 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 28, 2017, for the applicant to respond. The applicant requested the completion date be extended to October 1, 2023 and for the Department to proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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 May 21, 2018, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12654 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on May 22, 2018 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

5. The right to be transferred is as follows:

Certificate: 3821 in the name of MARTHA BLOW (perfected under Permit S-5528)
Use: IRRIGATION OF 18.0 ACRES
Priority Date: JULY 17, 1922
Rate: 0.225 CUBIC FOOT PER SECOND
Source: TROUT CREEK AND SPRINGS, tributary to the WALLOWA RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	44 E	WM	26	NE SW	5.0
1 S	44 E	WM	26	SW SW	4.0
1 S	44 E	WM	26	SE SW	9.0
Total					18.0

6. Certificate 3821 does not describe the location of the points of diversion, however information is available from the CWRE's survey for this transfer application indicating the points of diversion are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	44 E	WM	26	NE SW	POD #1 (TROUT CREEK) - 2252 FEET NORTH AND 2184 FEET EAST FROM THE SW CORNER OF SECTION 26
1 S	44 E	WM	26	SE SW	POD #2 (SPRINGS) - 1128 FEET NORTH AND 2070 FEET EAST FROM THE SW CORNER OF SECTION 26

7. Transfer Application T-12654 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	44 E	WM	26	SE NW	11.8
1 S	44 E	WM	26	NE SW	3.7
1 S	44 E	WM	26	SE SW	2.5
Total					18.0

Transfer Review Criteria [OAR 690-380-4010(2)]

8. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.

9. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-12654.

10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in place of use proposed in Transfer Application T-12654 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-12654 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 3821 and any related decree.
3. Water right Certificate 3821 is cancelled.
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.
 - 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 former place of use of the transferred right shall no longer receive water under the right.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.
7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this **JUL 31 2018**



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

Mailing date: **AUG 01 2018**