

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

In the Matter of Transfer Application	)	FINAL ORDER
T-12953, Wasco 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**

FRANCIS ROY AND CORALEE GROCE  
80242 CLAYMIER LANE  
MAUPIN OR 97037

**Agent**

TENNESON ENGINEERING  
LARRY TOLL  
3775 CRATES WAY  
THE DALLES OR 97058

**Findings of Fact**

1. On June 18, 2018, Francis Roy and Coralee Groce filed an application to change the place of use under Certificates 77326 and 77733. The Department assigned the application number T-12953.
2. Notice of the application for transfer was published on June 21, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 6, 2018, the agent for the applicants revised the application and map to better describe the place of use and proposed “TO” lands.
4. The Department has determined that the water rights subject to transfer are layered with water right permit S-54068 for primary irrigation in the name of Juniper Flat District Improvement Company. The applicant has stated that they do not intend to prove up the portion of Permit S-54068 on either of these associated “FROM” and “TO” lands described below in Finding of Fact No. 5 and No. 6.

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.

5. On September 6, 2018, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12953 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of October 6, 2018, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer (or amended the application or did not respond by the deadline).
6. On November 28, 2018, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12953 **Error! Reference source not found.** and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on December 4, 2018 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. The portion of the primary water right to be transferred is as follows:

**Certificate:** 77326 in the name of JUNIPER FLAT DISTRICT IMPROVEMENT CO. (confirmed by White River Decree of the Circuit Court of the State of Oregon for Wasco County)

**Use:** IRRIGATION OF 34.98 ACRES AND STOCK

**Priority Date:** JULY 1, 1903 FOR DIRECT FLOW FROM CLEAR CREEK AND FROG CREEK, AND AUGUST 19, 1904, FOR STORAGE IN CLEAR LAKE RESERVOIR

**Limit/Duty:** ONE ACRE FOOT PER ACRE OR ACRE EQUIVALENT DURING ANY 30-DAY PERIOD UP TO JULY 1<sup>st</sup> OF EACH YEAR AND NOT TO EXCEED 3.0 ACRE FEET PER ACRE OR ACRE EQUIVALENT DURING ANY IRRIGATION SEASON; PROVIDED, THAT THE RATE OF FLOW SHALL NOT EXCEED 1/40<sup>th</sup> OF A SECOND FOOT PER ACRE OR ACRE EQUIVALENT UP TO JULY 1<sup>st</sup> OF EACH YEAR AND THEREAFTER NOT TO EXCEED 1/80<sup>th</sup> OF A SECOND FOOT PER ACRE OR ACRE EQUIVALENT, EXCEPT IN CASE OF ROTATION.

**Source:** DIRECT FLOW FROM CLEAR CREEK AND FROG CREEK AND STORAGE IN CLEAR LAKE RESERVOIR, a tributary of WHITE RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Source
4 S	9 E	WM	34	NE NE	FROG CREEK
5 S	9 E	WM	10	NW SE	CLEAR CREEK
4 S	9 E	WM	32	SE SE	CLEAR LAKE RESERVOIR DAM

**Authorized place of use:**

PRIMARY IRRIGATION AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	12 E	WM	14	SW SE	0.60
5 S	12 E	WM	14	SE SE	2.40
5 S	12 E	WM	23	NW NE	6.90
5 S	12 E	WM	23	NE NW	9.00
5 S	12 E	WM	23	NW NW	12.68
5 S	12 E	WM	23	SW NW	3.40
Total					34.98

8. Transfer Application T-12953 proposes to change the place of use to:

PRIMARY IRRIGATION AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	12 E	WM	14	NE NW	0.80
5 S	12 E	WM	14	NW SW	23.68
5 S	12 E	WM	14	SW SW	7.20
5 S	12 E	WM	14	SE SW	0.30
5 S	12 E	WM	14	NW SE	0.30
5 S	12 E	WM	14	SW SE	2.70
Total					34.98

9. The portion of the supplemental irrigation water right to be transferred is as follows:

**Certificate:** 77733 in the name of JUNIPER FLAT DISTRICT IMPROVEMENT CO.  
(perfected under Permit S-25275)

**Use:** SUPPLEMENTAL IRRIGATION OF 34.98 ACRES

**Priority Date:** NOVEMBER 11, 1915

**Quantity:** 146.92 ACRE FEET

**Duty:** LIMITED TO A DIVERSION OF 4.2 ACRE FEET FOR EACH ACRE IRRIGATED OR ACRE EQUIVALENT DURING THE IRRIGATION SEASON OF EACH YEAR

**Source:** CLEAR LAKE RESERVOIR (CONSTRUCTED UNDER PERMIT R-2106), a tributary of the WHITE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	9 E	WM	32	SE SE	1390 FEET SOUTH AND 480 FEET WEST FROM THE E <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 32

**Authorized place of use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	12 E	WM	14	SW SE	0.60
5 S	12 E	WM	14	SE SE	2.40
5 S	12 E	WM	23	NW NE	6.90
5 S	12 E	WM	23	NE NW	9.00
5 S	12 E	WM	23	NW NW	12.68
5 S	12 E	WM	23	SW NW	3.40
Total					34.98

10. Transfer Application T-12953 proposes to change the place of use of the above described water rights to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	12 E	WM	14	NE NW	0.80
5 S	12 E	WM	14	NW SW	23.68
5 S	12 E	WM	14	SW SW	7.20
5 S	12 E	WM	14	SE SW	0.30
5 S	12 E	WM	14	NW SE	0.30
5 S	12 E	WM	14	SW SE	2.70
Total					34.98

11. The lands proposed for transfer are located within the Juniper Flat District Improvement Company. Timothy Morelli, Chairman of the Board of Directors for the company, submitted a completed consent form concurring with the proposed water right transfer application.

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

12. Water has been used within the five-year period prior to submittal of the transfer application according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
13. Diversion structures, ditch and district delivery system sufficient to use the full amounts of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-12953.
14. The proposed change would not result in enlargement of the rights.
15. The proposed change would not result in injury to other water rights.
16. All other application requirements are met.

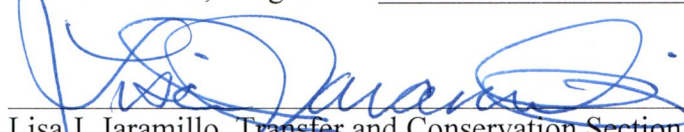
**Conclusions of Law**

The change in place of use proposed in Transfer Application T-12953 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-12953 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 Certificates 77326 and 77733 and any related decree.
3. Water right Certificates 77326 and 77733 are modified. The Department will issue superseding certificates describing the rights when it is determined that it is necessary for record keeping.
4. The former place of use of the transferred rights shall no longer receive water under the rights.
5. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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.

Dated at Salem, Oregon this APR 23 2019,

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

Mailing date: APR 24 2019