

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

In the Matter of Transfer Application) FINAL ORDER
T-12748, Hood River 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

BRADFORD AND SARAH PERRON
502 DOGWOOD RD
HOOD RIVER, OR 97031

Agent

TENNESON ENGINEERING CORP.
ATTN: LARRY TOLL
3775 CRATES WAY
THE DALLES, OR 97058

Findings of Fact

1. On September 18, 2017, Bradford and Sarah Perron filed an application to change the place of use under Certificate 77042. The Department assigned the application number T-12748.
2. Notice of the application for transfer was published on September 26, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 16, 2018, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12748 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 15, 2018, for the applicant to respond. On April 12, 2018, the agent for the applicant submitted a new revised map and associated revised Tables 1 and 2 of the application, withdrawing the request for the transfer of the domestic use from a spring. The agent for the applicant also requested that the Department 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.

- On October 3, 2018, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12748 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 October 9, 2018 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
- The portion of the right to be transferred is as follows:

Certificate: 77042 in the name of ROBERT KENT ROSEMONT (confirmed by Phelps Creek (F) Hood River Decree)
Use: IRRIGATION OF 0.4 ACRE
Priority Date: 1864
Rate: 0.005 CUBIC FOOT PER SECOND (CFS) FROM PHELPS CREEK
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The irrigation season allowed under this right is fixed as being April 15 and ending October 31 of each year
Source: PHELPS CREEK, tributary of the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	10 E	WM	33	NE NE	PHELPS CREEK – NONE GIVEN

Authorized Places of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acre
3 N	10 E	WM	33	NE NE	400	0.4

- Transfer Application T-12748 proposes to change the place of use of the 0.4 acre of irrigation, while remaining within the same quarter quarter and tax lot to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acre
3 N	10 E	WM	33	NE NE	400	0.4

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

- Water has been used within the five-year period prior to submittal of the transfer application 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.
- 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-12748.
- The proposed change would not result in enlargement of the right.

10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

Conclusions of Law

The change in place of use proposed in Transfer Application T-12748 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-12748 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 77042 and any related decree.
3. Water right Certificate 77042 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The former place of use of the transferred right shall no longer receive water under the right.
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.
6. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this NOV 21 2018,



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

Mailing date: NOV 26 2018