

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

In the Matter of Transfer Application T-7794,)
Approving a Change in Place of Use,)
Deschutes County) FINAL ORDER

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

BROOKS RESOURCES CORP.
296 SW COLUMBIA ST SUITE A
BEND OR 97702

Findings of Fact

1. Brooks Resources Corp. filed an application to transfer the place of use under Permit G-11106. The Department assigned the application number T-7794.
2. Permit G-11106 was superseded by Certificate 80653 issued April 22, 2004.
3. The right to be transferred is as follows:

Certificate: 80653 in the name of Brooks Resources Corp. (perfected under Permit G-11106)

Use: IRRIGATION of 0.9 ACRES

Priority Date: JUNE 28, 1990

Rate: 0.01 CUBIC FEET PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3 acre-feet per acre

Source: Two wells in the Deschutes Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	11 E	WM	24	SW SE	1280 FEET NORTH AND 799 FEET EAST FROM SOUTH 1/4 CORNER, SECTION 24
17 S	11 E	WM	25	NE NW	875 FEET SOUTH & 732 FEET WEST FROM N1/4 CORNER, SECTION 25

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	11 E	WM	24	NE NE	0.9

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in an uncontested 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 either 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. Application T-7794 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	11 E	WM	24	SE SW	0.9

5. The FROM property was sold after submission of the transfer application, but prior to issuance of a transfer order. Affidavits granting permission for the transfer were sought by Brooks Resources and received from the current owners of the two affected parcels.
6. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
7. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in place of use proposed in application T-7794 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

The change proposed in application T-7794 is approved; subsequent use of the transferred water shall be subject to the following conditions:

1. The right to 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 80653 and any related decree.
2. The proposed change shall be completed on or before October 1, 2006.
3. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2007.
4. Certificate 80653 is cancelled; Certificate 80994 shall be issued to describe the remaining rights unaffected by T-7794.
5. The former place of use shall no longer be irrigated as part of this water right.
6. When required by the Department, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

Dated at Salem, Oregon this 19th day of January 2005.



for Phillip C. Ward, Director

Mailing date: JAN 20 2005