

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11071, Washington County) CHANGE IN PLACE OF USE

Authority

ORS 540.505 to 540.580 establishes 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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

JAY HOFFMAN
22307 SW MUNGER LANE
SHERWOOD, OR 97410

Agent

ERIC URSTADT
STUNTZNER ENGINEERING & FORESTRY, LLC
2137 19TH AVE
FOREST GROVE, OR 97116

Findings of Fact

Background

1. On April 29, 2010, JAY HOFFMAN filed an application to change the place of use under perfected portion of Permit S-35792. The Department assigned the application number T-11071.

2. The portion of right to be transferred is as follows:

- Certificate:** Special Order Volume 67, Pages 627-662 (Determination of Satisfactory Proof for Permit S-35792) in the name of the United States of America, BUREAU OF RECLAMATION
- Use:** IRRIGATION of 35.9 ACRES
- Priority Date:** FEBRUARY 20, 1963
- Rate:** 0.4 CUBIC FOOT PER SECOND
- 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 from direct flow and shall be further limited to a diversion of not to exceed 2.5 acre-feet for each acre irrigated during the

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.

irrigation season of each year from direct flow and storage from the reservoir constructed under Permit R-5777 provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein and further limited to the use of stored water only on the lands described as supplemental.

Source: SCOGGINS CREEK, GALES CREEK, and the TUALATIN RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	4 W	WM	20	NE NE	700 FEET SOUTH AND 1030 FEET WEST FROM THE NE CORNER OF SECTION 20

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
2 S	2 W	WM	11	NE SW	46	6.1
2 S	2 W	WM	11	SE SW	46	20.6
2 S	2 W	WM	11	NW SE	46	0.3
2 S	2 W	WM	11	SW SE	46	8.9

3. Transfer Application T-11071 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
2 S	2 W	WM	2	SW SW	39	5.6
2 S	2 W	WM	2	SE SW	39	4.8
2 S	2 W	WM	11	NE NW	39	11.9
2 S	2 W	WM	11	NW NW	39	13.6

4. A change in point of re-diversion is necessary to convey the water to the proposed place of use. The original point of re-diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Latitude & Longitude
2 S	2 W	WM	11	NE SW	45°24'33.71"N, -122°54'06.61"W

5. Transfer Application T-11071 proposes to move the point of re-diversion approximately 1522 feet upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	2 W	WM	11	NW SW	1300 FEET NORTH AND 465 FEET EAST FROM THE SW CORNER OF SECTION 11

6. Notice of the application for transfer was published on May 4, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On August 31, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11071 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 30, 2010, for the applicant to respond. The applicant 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.

8. On September 20, 2010, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11071 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on September 21, 2010, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

9. 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.
10. A pump, pipeline, and sprinkler system 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-11071.
11. The proposed change would not result in enlargement of the right.
12. 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-11071 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

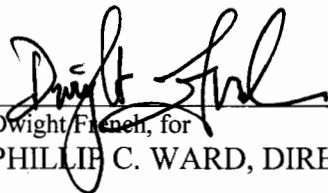
Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-11071 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 the perfected portion of Permit S-35792 and any related decree.
3. Special Order Volume 67, Pages 627-662 (Satisfactory Proof of Permit S-35792) is modified. The Department will issue a superseding order describing the right when it determines that it is necessary for record keeping.
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 meter or measuring devices in good working order.

c. The water user shall allow the Watermaster access to the meter or measuring devices; provided however, where the meter 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. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. 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 22 day of October 2010.


Dwight French, for
PHILLIP C. WARD, DIRECTOR

Mailing Date **OCT 25 2010**