

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11005, Lane 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

U.S. UMPQUA NATIONAL FOREST
ATTN: CLIFFORD DILS
2900 NW STEWART PARKWAY
ROSEBURG, OR 97471

Agent

DONN ROWE
90946 SUNDERMAN RD
SPRINGFIELD, OR 97478

Findings of Fact

Background

1. On January 13, 2010, the U.S. UMPQUA NATIONAL FOREST filed an application to change the place of use under Certificate 34613. The Department assigned the application number T-11005.
2. The portion of the first right to be transferred is as follows:

Certificate: 34613 in the name of UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE (perfected under Permit S-28741)
Use: IRRIGATION of 19.1 ACRES
Priority Date: APRIL 4, 1963
Rate: 0.15 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, shall be limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (CFS), or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year; provided further that the right to

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.

use water is limited to the period when the flow of the Row River is more than 100 CFS at its mouth and the Coast Fork Willamette River is more than 135 CFS at its mouth.

Source: ROW RIVER, tributary to the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
20 S	2 W	WM	31	SE NE	39	3280 FEET NORTH AND 210 FEET WEST FROM THE SE CORNER OF SECTION 31

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
20 S	2 W	WM	31	SE SE	39	0.14
20 S	2 W	WM	32	NE SW	38	0.49
20 S	2 W	WM	32	NW SW	39	3.56
20 S	2 W	WM	32	NW SW	38	0.32
20 S	2 W	WM	32	SW SW	39	5.94
20 S	2 W	WM	32	SW SW	38	0.37
20 S	2 W	WM	32	SE SW	38	2.20
21 S	2 W	WM	5	NW NW	39	3.04
21 S	2 W	WM	6	NE NE	39	3.04
Total						19.1

- Certificate 34613 lists the Row River as a tributary to the Willamette River. It is actually a tributary to the Coast Fork Willamette River.
- Transfer Application T-11005 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
20 S	2 W	WM	32	SW SW	38	3.79
20 S	2 W	WM	32	SW SW	39	2.84
20 S	2 W	WM	32	SE SW	38	11.37
21 S	2 W	WM	5	NE NW	38	1.10
Total						19.1

- Notice of the application for transfer was published on January 19, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On August 16, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11005 to the applicant. The draft Preliminary Determination set forth a deadline of September 15, 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.
- On September 23, 2010, the Department issued a preliminary determination proposing to approve Transfer T-11005 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 28, 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)]

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 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-11005.
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-11005 appears to be 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-11005 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 34613 and any related decree.
3. Water right certificate 34613 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
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.
7. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 29 day of October 2010.


Dwight French, for
Phillip C. Ward, Director

Mailing Date: NOV 01 2010