

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11465, Crook 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

MILL CREEK LAND LLC
ATTN: MARK G. COPELAND
7900 NE MILL CREEK RD
PRINEVILLE, OR 97754

Findings of Fact

Background

1. On August 23, 2012, MILL CREEK LAND LLC filed an application to change the place of use under Certificates 83657 and 83658. The Department assigned the application number T-11465.
2. On December 11, 2012, the applicant amended the application to include the domestic and stock water uses authorized under the rights in the transfer.
3. The portion of the first right to be transferred is as follows:
Certificate: 83657 in the name of MILL CREEK LAND, LLC (confirmed by Crooked River Decree)
Use: DOMESTIC AND STOCK USE, AND IRRIGATION of 14.8 ACRES
Priority Date: 1868
Rate: 0.19 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually beneficially, the total quantity being limited to 4 acre feet per acre during each year, if available at the authorized point of diversion: NO

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.

NAME DITCH, or its equivalent in case of rotation, measured at the point of diversion from the source.

Source: MILL CREEK, tributary to OCHOCO CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	17 E	WM	22	SE SE	1122 FEET NORTH AND 346 FEET WEST FROM THE NW CORNER OF SECTION 26

Authorized Place of Use:

DOMESTIC, STOCK & IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	17 E	WM	26	NW NE	5.0
14 S	17 E	WM	26	SW NE	5.6
14 S	17 E	WM	26	NE NW	1.8
14 S	17 E	WM	26	SE NW	2.4

4. Transfer Application T-11465 proposes to change the place of use of the right to:

DOMESTIC, STOCK & IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	17 E	WM	26	SW SW	13.5
14 S	17 E	WM	35	NW NW	1.3

5. The portion of the second right to be transferred is as follows:

Certificate: 83658 in the name of MILL CREEK LAND, LLC (confirmed by Crooked River Decree)

Use: IRRIGATION of 14.8 ACRES AND STOCK

Priority Date: 1880

Rate: 0.19 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually beneficially used, the total quantity being limited to four acre feet per acre during each year, if available at the original point of diversion: SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, T 14 S, R 17 E, W.M.; Ochoco Ditch – 350 feet South and 350 feet East from the NW corner SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, or its equivalent in case of rotation, measured at the point of diversion from the source.

Source: OCHOCO CREEK, tributary to the CROOKED RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	17 E	WM	35	SE NW	2018 FEET SOUTH AND 2605 FEET EAST FROM THE NW CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	17 E	WM	26	SW SW	13.5
14 S	17 E	WM	35	NW NW	1.3

6. Transfer Application T-11465 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	17 E	WM	26	NW NE	5.0
14 S	17 E	WM	26	SW NE	5.6
14 S	17 E	WM	26	NE NW	1.8
14 S	17 E	WM	26	SE NW	2.4

7. Notice of the application for transfer was published on August 28, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
8. On October 30, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11465 to the applicant. On November 29, 2012, the applicant requested that the completion date be extended to October 1, 2015, and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
9. The Department considers the extension of the completion date to October 1, 2015 to be reasonable, as reflected in this document.
10. On December 19, 2012, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11465 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on December 24, 2012, 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)]

11. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
12. Pumps, pipelines, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
13. The proposed changes would not result in enlargement of the rights.
14. The proposed change would not result in injury to other water rights.

