

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11117, Jackson 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

BETTY KNOEBEL
P.O. BOX 558
EAGLE POINT, OR 97524

Findings of Fact

Background

1. On August 6, 2010, BETTY KNOEBEL filed an application to change the place of use under Certificates 17227, 85714 and 83349. The Department assigned the application number T-11117.
2. The portion of the first right to be transferred is as follows:

Certificate: 17227 in the name of L.H. WYANT (confirmed by Little Butte Creek Decree)
Use: IRRIGATION of 3.0 ACRES
Priority Date: MAY 12, 1896
Rate: 0.075 CUBIC FOOT PER SECOND MEASURED AT THE HEAD OF THE DITCH OR THE POINT WHERE THE SAME LEAVES THE NATURAL STREAM
Period of Use: APRIL 1 TO OCTOBER 1
Source: SOUTH FORK LITTLE BUTTE CREEK, tributary to LITTLE BUTTE CREEK

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.

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	2 E	WM	19	SE SE	3.0

3. Certificate 17227 does not describe the point of diversion; however, information available from the Certified Water Right Examiner’s map accompanying Transfer Application T-11117 indicates that the point of diversion is located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
36 S	2 E	WM	29	NE SE	780 FEET SOUTH AND 400 FEET WEST FROM THE E¼ CORNER OF SECTION 29

4. Transfer Application T-11117 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	2 E	WM	30	SE NE	3.0

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

Certificate: 83349 in the name of CASCADE RANCH (perfected under Permit S-31268)
Use: IRRIGATION of 50.8 ACRES
Priority Date: JULY 5, 1966
Rate: 2.18 CUBIC FEET PER SECOND AND 21.7 ACRE FEET
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 4.5 acre-feet for each acre irrigated during the irrigation season of each year from April 2 to October 31 from direct flow and storage.
Sources: LOST, HARRISON, CHARLEY and COON CREEKS, and 21.7 ACRE FEET FROM BRADSHAW RESERVOIR, CONSTRUCTED UNDER PERMIT R-4747, tributaries of the SOUTH FORK LITTLE BUTTE CREEK

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Source	Measured Distances
37 S	1 E	WM	1	NW SW	BRADSHAW RESERVOIR	650 FEET SOUTH AND 1130 FEET EAST FROM THE W¼ CORNER OF SECTION 1
37 S	2 E	WM	20	SE NE	COON CR	400 FEET NORTH FROM THE E¼ CORNER OF SECTION 20
37 S	2 E	WM	27	SW NE	LOST CR	1650 FEET SOUTH AND 2650 FEET EAST FROM THE NW CORNER OF SECTION 27
37 S	2 E	WM	28	NE NE	HARRISON CR	980 FEET SOUTH AND 450 FEET WEST FROM THE NW CORNER OF SECTION 27
37 S	2 E	WM	28	NE NW	CHARLEY CR	50 FEET SOUTH AND 850 FEET WEST FROM THE N¼ CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	1 E	WM	36	SW SW	3.4
36 S	1 E	WM	36	SE SW	25.4
36 S	1 E	WM	36	SW SE	21.0
36 S	1 E	WM	36	SE SE	1.0
Total					50.8

6. Transfer Application T-11117 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	2 E	WM	19	SW NW	7.0
36 S	2 E	WM	19	NE SW	2.4
36 S	2 E	WM	19	NW SE	13.0
36 S	2 E	WM	19	SW SE	4.2
36 S	2 E	WM	19	SE SE	7.5
36 S	2 E	WM	30	NE NE	11.5
36 S	2 E	WM	30	NW NE	4.9
36 S	2 E	WM	30	SE NE	0.3
Total					50.8

7. The portion of the third right to be transferred is as follows:

Certificate: 85714 in the names of ROGUE RIVER VALLEY IRRIGATION DISTRICT and MEDFORD IRRIGATION DISTRICT (confirmed by Little Butte Creek Decree)

Use: IRRIGATION of 18.0 ACRES

Priority Date: SEPTEMBER 14, 1899

Rate: 0.13 CUBIC FOOT PER SECOND MEASURED AT THE HEAD OF THE DITCH OR THE POINT WHERE THE SAME LEAVES THE NATURAL STREAM

Period of use: APRIL 1 TO OCTOBER 1

Sources: NORTH AND SOUTH FORKS LITTLE BUTTE CREEK, tributaries to LITTLE BUTTE CREEK

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Source	Measured Distances
36 S	2 E	WM	20	SE NE	NORTH FORK	40 FEET NORTH AND 620 FEET WEST FROM THE E¼ CORNER OF SECTION 20
36 S	2 E	WM	29	NE SE	SOUTH FORK	780 FEET SOUTH AND 400 FEET WEST FROM THE E¼ CORNER OF SECTION 29

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	2 E	WM	30	NE NE	18.0

8. Transfer Application T-11117 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	2 E	WM	19	NE SW	2.5
36 S	2 E	WM	19	NE SE	1.6
36 S	2 E	WM	19	NW SE	12.0
36 S	2 E	WM	19	SW SE	0.1
36 S	2 E	WM	19	SE SE	1.8
Total					18.0

9. Notice of the application for transfer was published on August 17, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On September 22, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11117 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 20, 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.
11. On October 22, 2010, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11117 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 October 26, 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)]

12. 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 rights are subject to forfeiture under ORS 540.610.
13. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-11117.
14. The proposed changes would not result in enlargement of the rights.
15. The proposed changes would not result in injury to other water rights.


Conclusions of Law

The change in place of use proposed in Transfer Application T-11117 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-11117 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 17227, 83349 and 85714, and any related decree.
3. Water right certificates 17227 and 83349 are cancelled. New certificates will be issued describing the portion of the rights not affected by this transfer.
4. Water right certificate 85714 is modified. The Department will issue a superseding certificate describing the right when it determines that is necessary for record keeping.
5. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
6. The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.
7. The former place of use of the transferred rights shall no longer receive water under the rights.
8. 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.
9. When satisfactory proof of the completed change is received, new certificates confirming the rights transferred under Certificates 17227 and 83349 will be issued.

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


Dwight French for
Phillip C. Ward, Director

Mailing date: DEC 01 2010