

purposes shall be limited to those rights specifically authorized for such use and shall continue throughout the year, in an amount as is reasonably necessary for such purposes, not exceeding the quantity herein limited.

Limit/Duty: The quantity of water diverted for domestic and stock purposes shall not exceed ONE-FORTIETH of a second foot for each authorized water right holder having one hundred head of stock or less; and in excess of one hundred head of stock, each authorized water right holder having a right therefore shall be entitled to divert ONE-FORTIETH of one second foot for each additional hundred head of stock; but during the irrigation season as herein limited, the quantity diverted by each water right holder for irrigation purposes in the amount to which he is entitled to divert the same, shall include the water to which he is entitled for stock and domestic purposes.

Source: LITTLE BUTTE CREEK, tributary to the ROGUE RIVER

Authorized Points of Diversion:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|-----|-----|-----|-------|--|
| 35 S | 1 E | WM | 31 | SW SE | 560 FEET NORTH AND 2990 FEET EAST FROM THE SW CORNER OF SECTION 31 |

Authorized Place of Use:

| IRRIGATION | | | | | | | |
|------------|-----|-----|-----|-------|------|---------|-------|
| Twp | Rng | Mer | Sec | Q-Q | GLot | Tax Lot | Acres |
| 36 S | 1 W | WM | 3 | SW NW | 5 | 706 | 5.0 |

5. The applicant proposes to change the character of use proposed in Finding of Fact #4 to Mining Water Use.

6. Application T-8840 also proposes to change the place of use of the right to:

| MINING | | | | | | | |
|--------|-----|-----|-----|-------|------|---------|-------|
| Twp | Rng | Mer | Sec | Q-Q | GLot | Tax Lot | Acres |
| 36 S | 1 W | WM | 3 | NW NW | 5 | 601 | 0.7 |
| 36 S | 1 W | WM | 3 | SW NW | | 601 | 4.3 |

7. Notice of the application for transfer was published on June 26, 2001, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

8. On October 28, 2002 the Department sent a deficiency letter to the applicant, requesting additional information.

9. On June 17, 2005, C.A. Galpin, the applicant, submitted items that were addressed in the October 28, 2002, deficiency letter.

10. On February 7, 2012, the agent for Wal-Mart, owner of the "from lands" consented to the changes proposed in T-8840.

11. On March 7, 2012, March 12, 2012, May 10, 2012 and July 10, 2012, the Department contacted the applicant by e-mail correspondence and numerous phone calls were made to notify the applicant of remaining deficiencies in the application. One response was provided on May 14, 2012, that the applicant would follow up on the list of deficiencies that were addressed. No further responses to the e-mails or phone calls were received.
12. On August 20, 2012, the Department sent to the applicant a copy of a draft Preliminary Determination proposing to deny Transfer Application T-8840, accompanied by a letter describing the deficiencies that needed to be resolved before the transfer could be approved. The draft Preliminary Determination cover letter set forth a deadline of September 20, 2012, for the applicant to respond. On August 29, 2012, the applicant provided the necessary information that was requested to approve the transfer as well demonstrate that the applicant is authorized to pursue the transfer, and on September 11, requested to change the completion date to October 1, 2018.
13. On September 12, 2012, the applicant revised the application to include a change in character of us, and submitted a revised map.
14. On October 12, 2012, the Department sent a copy of a revised draft Preliminary Determination proposing to approve Transfer Application T-8840 to the applicant. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
15. On December 12, 2012, the Department issued a Preliminary Determination proposing to approve Transfer Application T-8840 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 18, 2012, and in the Medford Mail Tribune newspaper on December 15, 22 and 29, 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)]

16. Water has been used within the five-year period prior to submittal of the transfer application 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.
17. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-8840.
18. The proposed change would not result in enlargement of the right.
19. The proposed change would not result in injury to other water rights.

Conclusions of Law

The changes in place of use and character of use proposed in Transfer Application T-8840 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in place of use and character of use proposed in application T-8840 are 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 81135 and any related decree.
3. Water right certificate 81135 is cancelled. A new certificate will be issued describing the 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 the existing point of diversion.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is 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. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. 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 changes and full beneficial use of the water.
7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 29 day of January, 2013.



Dwight French, Water Right Services Administrator, for
PHILIP C. WARD, DIRECTOR

Mailing date: FEB 05 2013