

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

In the Matter of Transfer Application) **FINAL ORDER**
T-10243, Crook County) APPROVING A 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

GUTIERREZ CATTLE CO.
PO BOX 1076
WEST SACRAMENTO, CA 95691

Findings of Fact

1. On September 27, 2006, Gutierrez Cattle Co. filed a transfer application to change the place of use under Certificates 33373 and 33374. The Department assigned the application number T-10243.

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

Certificate: 33373 in the name of Gale Merwin (perfected under Permit S-26390)

Use: IRRIGATION of 16.8 ACRES

Priority Date: OCTOBER 9, 1959

Rate: 0.3 CUBIC FOOT PER SECOND

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 4 acre-feet per acre per year

Source: CROOKED RIVER, tributary to DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	21 E	WM	1	NW SW	1750 FEET NORTH AND 10 FEET EAST FROM THE SW CORNER, SECTION 1

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either 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:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	21 E	WM	2	SE SW	4.0
17 S	21 E	WM	2	SW SE	11.0
17 S	21 E	WM	11	NW NW	1.8
Total:					16.8

3. Application T-10243 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	21 E	WM	2	SW SW	16.8
Total:					16.8

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

Certificate: 33374 in the name of GALE MERWIN (perfected under Permit S-22142)

Use: IRRIGATION of 13.8 ACRES

Priority Date: FEBRUARY 23, 1953

Rate: 0.205 CUBIC FOOT PER SECOND

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 4 acre-feet per acre per year

Source: CAMP CREEK, tributary to CROOKED RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	21 E	WM	1	SW SE	150 FEET NORTH AND 2720 FEET EAST FROM NW CORNER, SECTION 12

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	21 E	WM	2	SE SW	0.2
17 S	21 E	WM	11	NW NE	4.2
17 S	21 E	WM	11	NE NW	7.4
17 S	21 E	WM	11	NW NW	2.0
Total:					13.8

5. Application T-10243 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	21 E	WM	2	SW SW	3.7
17 S	21 E	WM	2	SE SW	7.5
17 S	21 E	WM	11	NE NW	2.1
17 S	21 E	WM	11	NW NW	0.5
Total:					13.8

6. Notice of the application for transfer was published on October 17, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

7. On April 2, 2007, the Department issued a preliminary determination proposing to approve Transfer T-10243 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 April 10, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the Department's weekly notice.

8. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are 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 are present.
10. The proposed change would not result in enlargement of the rights.
11. The proposed change would not result in injury to other water rights.

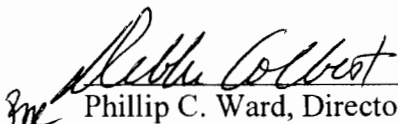
Conclusions of Law

The proposed change in place of use in application T-10243 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 application T-10243 is approved.
2. Water right certificates 33373 and 33374 are cancelled. New certificates will be issued describing the portions of the rights not affected by this transfer.
3. 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 Certificates 33373 and 33374 and any related decree.
4. The former place of use of the transferred water shall no longer receive water as part of these rights.
5. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. A Claim of Beneficial Use prepared by a Certified Water Rights 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.
6. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 24th day of May 2007.


Phillip C. Ward, Director

Mailing date: MAY 29 2007