

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-10435, Crook County)	TEMPORARY A CHANGE IN PLACE
)	OF USE

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of diversion 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

CITY OF PRINEVILLE
Attn – Jerry Brummer
387 NE THIRD ST
PRINEVILLE OR 97754

Agent

GSI WATER SOLUTIONS INC.
Attn – Adam Sussman
1600 SW WESTERN BLVD
CORVALLIS, OR 97333

Findings of Fact

Background

1. On July 19, 2007, Jerry Brummer, Water Superintendent for the City of Prineville, on behalf of the City of Prineville, filed an application to temporarily change the place of use under Certificates 75487, 76013, 75489 and 76012 for a period of one year. The Department assigned the application number T-10435.
2. The entirety of the first right to be transferred is as follows:

Certificate: 75487 in the name of PEOPLE'S IRRIGATION COMPANY (perfected under Permit S-11494)

Use: IRRIGATION of 12.4 ACRES

Priority Date: NOVEMBER 21, 1934

Rate: 0.16 CUBIC FOOT PER SECOND (cfs)

Source: CROOKED RIVER, tributary to DESCHUTES RIVER

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 Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
15 S	16 E	WM	8	NW SW	1920 FEET NORTH AND 340 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot*	Acres	Owner*
14 S	15 E	WM	36	NW NW	400	12.4	Glover

*as described on Certificate 75487

3. Transfer Application T-10435 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	16 E	WM	6	SE NW	12.4

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

Certificate: 76013 in the name of BUREAU OF RECLAMATION, UNITED STATES OF AMERICA AND PEOPLES IRRIGATION COMPANY (perfected under Permit S-25991)

Use: SUPPLEMENTAL IRRIGATION of 122.23 ACRES

Priority Date: APRIL 8, 1914

Rate: 3.06 CUBIC FEET PER SECOND (cfs) from direct flow and storage from the reservoir

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 4 acre-feet per acre during the irrigation season of each year

Source: CROOKED RIVER and PRINEVILLE RESERVOIR (constructed under Permit R-2223), tributaries to DESCHUTES RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	16 E	WM	11	SW NW	BOWMAN DAM - 1650 FEET SOUTH AND 300 FEET EAST FROM THE NW CORNER OF SECTION 11
15 S	16 E	WM	8	NW SW	PEOPLE'S DITCH - 1920 FEET NORTH AND 340 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot*	Acres	Owner*
14 S	15 E	WM	26	SE SE	500	6.70	WILLIAMS
14 S	15 E	WM	35	NW NE	100	24.43	WILLIAMS
14 S	15 E	WM	36	SW NE	3500	2.00	CITY OF PRINEVILLE
14 S	15 E	WM	36	NW NW	400	12.40	GLOVER
14 S	15 E	WM	36	SE NW	1200	7.00	MOORE
14 S	15 E	WM	36	SE NW	4700	28.80	SIMMONS
14 S	15 E	WM	36	NE SW	4700	25.40	SIMMONS
14 S	15 E	WM	36	NE SW	4100	1.90	ROSE
14 S	15 E	WM	36	NE SW	4800	1.90	NORRIS
14 S	15 E	WM	36	NE SW	4300	1.40	COLINS
14 S	15 E	WM	36	NE SW	4200	1.00	SMITH
14 S	15 E	WM	36	NE SW	4500	1.00	NEASHAM
14 S	15 E	WM	36	NW SE	3501	6.10	CITY OF PRINEVILLE
14 S	15 E	WM	36	SW SE	3503	2.20	CITY OF PRINEVILLE

*as denoted on Certificate 76013

5. Transfer Application T-10435 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	16 E	WM	6	SW NE	5.55
15 S	16 E	WM	6	NE NW	0.01
15 S	16 E	WM	6	SE NW	20.18
15 S	16 E	WM	6	NE SW	24.21
15 S	16 E	WM	6	SE SW	8.20
15 S	16 E	WM	6	NE SE	12.80
15 S	16 E	WM	6	NW SE	17.56
15 S	16 E	WM	6	SW SE	18.84
15 S	16 E	WM	6	SE SE	14.88

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

Certificate: 75489 in the name of PEOPLE'S IRRIGATION COMPANY (perfected under Permit S-11619)

Use: IRRIGATION of 24.43 ACRES

Priority Date: MARCH 28, 1935

Rate: 0.31 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 4 acre-feet per acre during the irrigation season of each year

Source: CROOKED RIVER, tributary to DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
15 S	16 E	WM	8	NW SW	1920 FEET NORTH AND 340 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot*	Acres	Owners*
14 S	15 E	WM	35	NW NE	500	24.43	WILLIAMS

*as denoted on Certificate 75489

7. Transfer Application T-10435 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	16 E	WM	6	SE NW	1.10
15 S	16 E	WM	6	NE SW	23.33

8. The portion of the fourth right to be transferred is as follows:

Certificate: 76012 in the name of PEOPLES IRRIGATION CO. (confirmed by decree of the Circuit Court for Crook County, recorded at Volume 1, Page 449 in the order record of the Water Resources Director)

Use: IRRIGATION of 85.4 ACRES

Priority Date: 1893 and 1895

Rate: 1.07 CUBIC FEET PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 4 acre-feet per acre during the irrigation season of each year

Source: CROOKED RIVER, tributary to DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
15 S	16 E	WM	8	NW SW	1920 FEET NORTH AND 340 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot*	Acres	Owner*	Priority
14 S	15 E	WM	26	SE SE	500	6.7	WILLIAMS	1895
14 S	15 E	WM	36	SW NE	3500	2.0	CITY OF PRINEVILLE	1893
14 S	15 E	WM	36	SE NW	1200	7.0	MOORE	1893
14 S	15 E	WM	36	SE NW	4700	28.8	SIMMONS	1893
14 S	15 E	WM	36	NE SW	4200	1.0	SMITH	1893
14 S	15 E	WM	36	NE SW	4500	1.0	NEASHAM	1893
14 S	15 E	WM	36	NE SW	4300	1.4	COLLINS	1893
14 S	15 E	WM	36	NE SW	4700	25.4	SIMMONS	1893
14 S	15 E	WM	36	NE SW	4100	1.9	ROSE	1893
14 S	15 E	WM	36	NE SW	4800	1.9	NORRIS	1893
14 S	15 E	WM	36	NW SE	3501	6.1	CITY OF PRINEVILLE	1893
14 S	15 E	WM	36	SW SE	3503	2.2	CITY OF PRINEVILLE	1893

9. Transfer Application T-10435 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority
15 S	16 E	WM	6	SW NE	5.55	1893
15 S	16 E	WM	6	NE NW	0.01	1895
15 S	16 E	WM	6	SE NW	6.69	1895
15 S	16 E	WM	6	NE SW	0.87	1893
15 S	16 E	WM	6	SE SW	8.20	1893
15 S	16 E	WM	6	NE SE	12.80	1893
15 S	16 E	WM	6	NW SE	17.56	1893
15 S	16 E	WM	6	SW SE	18.84	1893
15 S	16 E	WM	6	SE SE	14.88	1893

10. Notice of the application for temporary transfer was published on July 24, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
11. Transfer Application T-10435 proposes to temporarily transfer water rights within the boundaries of Ochoco Irrigation District. The district was notified of the proposed temporary transfer and did not provide any comments.
12. Transfer Application T-10435 proposes to temporarily transfer water rights served by a Bureau of Reclamation storage project. The Bureau was notified of the proposed temporary transfer and did not provide any comments.
13. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
14. A diversion structure, ditch and pumps 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-10435.
15. The proposed change would not result in enlargement of the rights.
16. The proposed change would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(6) if the Department later finds that the transfer is causing injury to any existing water right.

Conclusions of Law


The temporary changes in place of use proposed in Transfer Application T-10435 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The changes in place of use proposed in Transfer Application T-10435 are approved.

2. The former place of use **shall not** be irrigated as part of these water rights during the 2007 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2007 irrigation season.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
5. A subsequent application for permanent transfer of Certificates 75487, 76013, 75489 and 76012 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
6. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 75487, 76013, 75489 and 76012.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
8. Prior to diverting water, the water user shall install an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.
9. The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.
10. The use of the remaining water rights described by Certificates 76013, 75489 and 76012 shall continue to be in accordance with the terms and conditions of Certificates 76013, 75489 and 76012.

Dated at Salem, Oregon this 28th day of August, 2007.


Phillip C. Ward, Director

Mailing Date: AUG 30 2007