

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-11885, Yamhill County	)	CHANGE IN POINT OF
	)	APPROPRIATION

**Authority**

Oregon Revised Statute (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

GARY CRUICKSHANK  
11400 SE STOCKHOFF RD  
DAYTON, OR 97114

**Findings of Fact**

1. On August 28, 2014, GARY CRUICKSHANK filed an application to change the point of appropriation under Certificate 50250. The Department assigned the application number T-11885.
2. Notice of the application for transfer was published on September 9, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 10, 2015, the applicant amended transfer application T-11885 to propose two more well locations.
4. On June 1, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11885 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 1, 2015, 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.

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.

5. On September 15, 2015, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11885. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on September 15, 2015, and in the News Register newspaper on September 18 and 25, 2015, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The right to be transferred is as follows:

**Certificate:** 50250 in the name of GARY A CRUICKSHANK (perfected under Permit G-5873)

**Use:** IRRIGATION of 122.4 ACRES

**Priority Date:** JULY 10, 1973

**Rate:** 1.10 CUBIC FEET PER SECOND

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** A WELL within the WEST FORK PALMER CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
5 S	4 W	WM	1	SW NE	2	1000 FEET NORTH AND 2880 FEET WEST FROM NE CORNER, DLC 55

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
5 S	3 W	WM	6	NW NW		21.2
5 S	3 W	WM	6	SW NW	4	29.2
5 S	4 W	WM	1	NE NE		12.0
5 S	4 W	WM	1	NW NE		10.6
5 S	4 W	WM	1	SW NE	2	19.6
5 S	4 W	WM	1	SE NE	1	29.8

7. Transfer Application T-11885 proposes to move the authorized point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances	Distance from Authorized Point of Appropriation
5 S	4 W	WM	1	NE NE		150 FEET SOUTH AND 1255 FEET WEST FROM THE NE CORNER OF SECTION 1	0.31 mile
5 S	4 W	WM	1	NE NE		460 FEET SOUTH AND 1215 FEET WEST FROM THE NE CORNER OF SECTION 1	0.29 mile
4 S	4 W	WM	36	SE SE	7	155 FEET NORTH AND 1230 FEET WEST FROM THE NE CORNER OF SECTION 1	0.36 mile

**Transfer Review Criteria (OAR 690-380-4010)**

8. 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 right is 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 were present within the five-year period prior to submittal of Transfer Application T-11885.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

**Conclusion of Law**

The change in point of appropriation proposed in Transfer Application T-11885 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000

**Now, therefore, it is ORDERED:**

1. The change in point of appropriation proposed in Transfer Application T-11885 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 50250 and any related decree.
3. Water right certificate 50250 is cancelled.
4. The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.

6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2017**. 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.
7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 3 day of November, 2015.

  
\_\_\_\_\_  
Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

Mailing date: NOV 05 2015