

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING CHANGE
T-6834, Umatilla County, Oregon	)	IN PLACE OF USE
	)	

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.

**Findings of Fact**

1. Beef City, Inc. submitted the transfer application on October 19, 1992. The file has been assigned to the listed names (heirs to the company) described below. Their wishes are for the transfer application to continue forward and that the receiving landowner is still wanting the incoming lands to provide water under a better priority date.

Irvin Lincoln Mann III  
11905 SW Lanewood St.  
Portland, OR 97225

Julie Fay Eubanks  
9324 SW Viewpoint Terrace  
Portland, OR 97219

Deborah Jane Buhler  
7860 S. Trenton St.  
Englewood, CO 80112

Lee Ann Eggleston  
3301 NE Alameda  
Portland, OR 97212

David Reavis Mann  
P.O. Box 397  
Carlton, OR 97111

2. The application proposes to CHANGE THE PLACE OF USE under a portion of certificate of water right 53733. Certificate 53733 allows the use of the UMATILLA RIVER, tributary to the COLUMBIA RIVER, for the IRRIGATION OF 13.8 ACRES. The maximum amount of water to which the right is entitled is 0.22 cubic feet per second (cfs) of continuous flow and 4.5 acre-feet (ac-ft) per season/year. The date of priority of the right is March 6, 1981. The authorized point of diversion is: WESTLAND CANAL – SW¼ NE¼, SEC. 21, T 3 N, R 29 E; NORTH 76 DEGREES 45 MINUTES 56 SECONDS EAST 2913.19 ' FROM THE W¼ CORNER, SECTION 21.
3. Notice of the application for transfer was published in the Department's weekly notice in October, 1992. One timely comment was filed in response to the weekly notice.

This is a final order in other than 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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

4. On December 2, 2003, the Department approved a request for an assignment of the transfer file to the heirs of the Beef City, Inc., company. The above listed names are the new applicants and it is their wish to have the remaining right certificate issued in their names since they own all the lands as well.

5. The authorized place of use is as follows:

Township		Range		Meridian	Section	QQ	Acres
3	N	28	E	W.M.	4	SW $\frac{1}{4}$ NE $\frac{1}{4}$	2.1
3	N	28	E	W.M.	4	SE $\frac{1}{4}$ NE $\frac{1}{4}$	2.9
3	N	28	E	W.M.	4	NE $\frac{1}{4}$ SE $\frac{1}{4}$	7.6
3	N	28	E	W.M.	4	NW $\frac{1}{4}$ SE $\frac{1}{4}$	1.2

6. Application T-6834 involves changing the place of use of the right to:

Township		Range		Meridian	Section	QQ	Acres
3	N	28	E	W.M.	3	NE $\frac{1}{4}$ SW $\frac{1}{4}$	13.8

7. Water has been used under the right within the last five years, within the limits and conditions of the certificate, and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. A concrete diversion dam structure, ditch, pump, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
9. There is a fish screen and measuring device in place at the authorized point of diversion.
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. Any return flows from either location likely enter the regional unconfined aquifer and ultimately discharge to the Umatilla River. The proposed place of use is in close proximity to the existing place of use and the location and timing of the discharge of any return flows to the Umatilla River will not change.

### Conclusions of Law

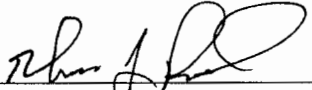
The change in place of use proposed in application T-6834 is consistent with the requirements of OAR Chapter 540 and OAR 690-380-5000.

### Now, therefore, it is ORDERED:

1. The change in place of use proposed in application T-6834 is approved.

2. Water right certificate 53733 is cancelled. A new certificate will be issued describing that portion of the right not involved in this transfer.
3. The right to the use of the water is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in Certificate 53733.
4. The proposed change shall be completed on or before October 1, 2006.
5. The water user shall install and maintain a headgate, 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 headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
6. The former place of use shall no longer receive water under the original authorized use of this water right.
7. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 22 day of November, 2004.

  
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Phillip C. Ward  
Director

Mailing date: NOV 29 2004