

Limit/Duty: ONE ACRE-FOOT PER ACRE or ACRE EQUIVALENT during any 30-day period up to JULY 1st of EACH YEAR and not to exceed 3.0 ACRE-FEET PER ACRE or ACRE EQUIVALENT during any irrigation season; PROVIDED, that the RATE OF FLOW SHALL NOT EXCEED ONE-FORTIETH of one cubic foot per second (cfs) per acre or acre equivalent up to JULY 1st of each year and thereafter NOT TO EXCEED ONE-EIGHTIETH of one cfs per acre or acre equivalent, except in case of rotation.

Source: Direct flow from CLEAR CREEK and FROG CREEK, and storage from CLEAR LAKE RESERVOIR, all tributaries of WHITE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	¼ ¼	Source	Survey Coordinates
4 S	9 E	WM	34	NE NE	FROG CREEK	not specified
5 S	9 E	WM	10	NW SE	CLEAR CREEK	not specified
4 S	9 E	WM	32	SE SE	CLEAR LAKE RESERVOIR DAM	not specified

Authorized Place of Use:

PRIMARY IRRIGATION & STOCK					
Twp	Rng	Mer	Sec	¼ ¼	Acres
5 S	12E	WM	26	NE NE	5.3
5 S	12E	WM	26	SE NE	0.7
TOTAL:					6.0

3. Transfer Application T-10504 proposes to change the place of use of the above described primary water right to:

PRIMARY IRRIGATION & STOCK					
Twp	Rng	Mer	Sec	¼ ¼	Acres
5 S	12E	WM	25	SW NW	6.0
TOTAL:					6.0

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

Certificate: 77733 in the name of JUNIPER FLAT DISTRICT IMPROVEMENT CO. (perfected under Permit 25275)

Use: SUPPLEMENTAL IRRIGATION of 6.0 ACRES

Priority Date: NOVEMBER 11, 1915

Limit/Duty: A DIVERSION OF 4.2 ACRE-FEET for each acre irrigated or acre equivalent during the irrigation season of each year

Source: CLEAR LAKE RESERVOIR (constructed under Permit R-2106), a tributary of WHITE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
4 S	9 E	WM	32	SE SE	1390 FEET SOUTH AND 480 FEET WEST FROM THE E¼ CORNER OF SECION 32

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
5 S	12E	WM	26	NE NE	5.3
5 S	12E	WM	26	SE NE	0.7
TOTAL:					6.0

5. Transfer Application T-10504 proposes to change the place of use of the above described supplemental water right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	¼ ¼	Acres
5 S	12E	WM	25	SW NW	6.0
TOTAL:					6.0

6. Notice of the application for transfer was published on December 25, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On August 22, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10504 to the applicant. The draft Preliminary Determination set forth a deadline of September 21, 2008, for the applicant to respond. The applicant requested that the Department proceed with the issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
8. On December 26, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10504 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on January 6, 2009, 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)]

9. 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.
10. A diversion structure and ditch 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-10504.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in place of use proposed in Transfer Application T-10504 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 Transfer Application T-10504 is approved.
2. Water right Certificates 77326 and 77733 are modified. The Department will issue superseding certificates describing the rights when it determines that is necessary for record keeping. 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 77326 and 77733, and any related decree.
3. The former place of use of the transferred rights shall no longer receive water under the rights.
4. When required by the Department, the water user shall install, maintain and operate 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.
5. The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.
6. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the Receiving Landowners, MANUEL D. & KATHLEEN PINHEIRO, to the Department within one year after the deadline for completion of the change and full beneficial use of the water. The claim must be received in Salem on or before **October 1, 2011**.

Dated at Salem, Oregon this 10th day of February 2009.

William E. Febre
for Phillip C. Ward, Director

Mailing date: FEB 24 2009