

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

In the Matter of Transfer Application            )  
T-12286, Baker County                            )  
  )  
  )    **FINAL ORDER**  
  )    **APPROVING A CHANGE IN**  
  )    **PLACE OF USE**

**Authority**

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish 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. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

**Applicant**

BRAD ALLEN  
48748 MCCARTY BRIDGE RD  
NORTH POWDER, OR 97867  
bradallen4030@hotmail.com

**Findings of Fact**

1. On February 29, 2016, BRAD ALLEN filed an application to change the place of use under Certificates 50115, 64145, and 64146. The Department assigned the application number T-12286.
2. Notice of the application for transfer was published on March 8, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 17, 2016, the applicant submitted a revised transfer application and map.
4. On May 23, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12286 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 24, 2016 for the applicant to respond. The applicant requested that the completion date be extended to October 1, 2022 and for 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, 2016, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12286 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on September 20, 2016, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

**Certificate:** 50115 in the name of WALTER JACOBSON (perfected under Permit S-31337)

**Use:** IRRIGATION OF 53.4 ACRES

**Priority Date:** FEBRUARY 15, 1966

**Rate:** 0.78 CUBIC FOOT 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-FORTIETH 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** POWDER RIVER, tributary to the SNAKE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	39 E	WM	11	NE SW	1100 FEET SOUTH AND 70 FEET EAST FROM THE NW CORNER OF THE NE¼ SW¼ OF SECTION 11

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
7 S	40 E	WM	7	NE SW	1	0.4
7 S	40 E	WM	7	NW SW	2	11.2
7 S	40 E	WM	7	SW SW	2	18.3
7 S	40 E	WM	7	SE SW	1	19.2
7 S	40 E	WM	18	NW NE		0.3
7 S	40 E	WM	18	NE NW	1	4.0
Total						53.4

7. Transfer Application T-12286 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	24	NE NE	22.0
7 S	39 E	WM	24	SE NE	31.4
Total					53.4

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

**Certificate:** 64145 in the name of FARM CREDIT BANK OF SPOKANE (perfected under Permit S-42470)

**Use:** SUPPLEMENTAL IRRIGATION OF 53.4 ACRES

**Priority Date:** APRIL 29, 1975

**Rate:** 0.86 CUBIC FOOT 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-FORTIETH 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** AN UNNAMED SLOUGH, tributary to the POWDER RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	39 E	WM	11	NE SW	450 FEET SOUTH AND 500 FEET WEST FROM THE C <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 11

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
7 S	40 E	WM	7	NE SW	1	0.4
7 S	40 E	WM	7	NW SW	2	11.2
7 S	40 E	WM	7	SW SW	2	18.3
7 S	40 E	WM	7	SE SW	1	19.2
7 S	40 E	WM	18	NW NE		0.3
7 S	40 E	WM	18	NE NW	1	4.0
Total						53.4

9. Transfer Application T-12286 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	24	NE NE	22.0
7 S	39 E	WM	24	SE NE	31.4
Total					53.4

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

**Certificate:** 64146 in the name of FARM CREDIT BANK OF SPOKANE (perfected under Permit S-42472)  
**Use:** IRRIGATION OF 147.4 ACRES  
**Priority Date:** AUGUST 10, 1976  
**Rate:** 2.5 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-FORTIETH 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** POWDER RIVER, WITH ANY DEFICIENCY IN THE AVAILABLE SUPPLY FROM POWDER RIVER TO BE MADE UP BY DIVERSION FROM AN UNNAMED SLOUGH, tributary to the SNAKE RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	39 E	WM	11	NE SW	RIVER - 1050 FEET SOUTH AND 1290 FEET WEST FROM THE C <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 11
7 S	39 E	WM	11	NE SW	SLOUGH - 450 FEET SOUTH AND 500 FEET WEST FROM THE C <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 11

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
7 S	40 E	WM	7	SW NE		3.7
7 S	40 E	WM	7	SW NW	2	2.1
7 S	40 E	WM	7	SE NW		14.0
7 S	40 E	WM	7	NE SW		39.6
7 S	40 E	WM	7	NW SW	2	13.0
7 S	40 E	WM	7	SE SW		20.8
7 S	40 E	WM	7	NW SE		29.4
7 S	40 E	WM	7	SW SE		24.8
Total						147.4

11. Transfer Application T-12286 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
7 S	39 E	WM	11	SE SW		13.5
7 S	39 E	WM	11	SW SE		0.3
7 S	39 E	WM	13	NW SE		0.7
7 S	39 E	WM	13	SW SE		17.7
7 S	39 E	WM	13	SE SE		35.9
7 S	39 E	WM	14	NW NE		20.3
7 S	39 E	WM	14	NE NW		37.8
7 S	39 E	WM	24	NE NE		8.6
7 S	40 E	WM	7	SW SE		2.2
7 S	40 E	WM	18	SW SW	1	10.4
Total						147.4

***Transfer Review Criteria [OAR 690-380-4010(2)]***

12. 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 rights are subject to forfeiture under ORS 540.610.
13. 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-12286.
14. The proposed change would not result in enlargement of the rights.
15. 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-12286 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-12286 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 Certificates 50115, 64145, and 64146, and any related decree.
3. Water right Certificates 50115, 64145, and 64146 are cancelled. New certificates will be issued describing the portion of the rights not affected by this transfer.
4. The former place of use of the transferred rights shall no longer receive water under the rights.
5. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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.

6. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 24 day of October, 2016.

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

Mailing date: OCT 31 2016