

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

In the Matter of Transfer Application) FINAL ORDER APPROVING CHANGE
T-10215, Jackson County) IN PLACE OF USE

Authority

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.

Applicant

GARY WEST
3671 SOUTH FORK LITTLE BUTTE CREEK
EAGLE POINT OR 97524

Agent

BERNIE KNOTTS
2568 GOULD AVE
MEDFORD, OR 97504

Findings of Fact

Background

1. On July 13, 2006, Gary West filed a transfer application to change the place of use under Certificate 46779. The Department assigned the application number T-10215.

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

Certificate: 46779 in the name of MIKE HANLEY (perfected under Permit S-3727)

Use: IRRIGATION of 6.8 ACRES

Priority Date: MARCH 7, 1918

Rate: 0.09 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH OF ONE CUBIC FOOT PER SECOND per acre, not to exceed 4.5 acre-feet per acre during the irrigation season of each year

Source: SOUTH FORK LITTLE BUTTE CREEK, tributary to ROGUE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
36 S	2 E	WM	33	NE SW	SOUTH 79 DEGREES 45 MINUTES EAST, 2045 FEET FROM THE WEST 1/4 CORNER OF SECTION 33

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 Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	2 E	WM	33	SW NW	6.0
36 S	2 E	WM	33	SE NW	0.8

3. Transfer Application T-10215 proposes to change the place of use of the right to:

Proposed Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	2 E	WM	33	SW NE	0.27
36 S	2 E	WM	33	SW NW	1.04
36 S	2 E	WM	33	SE NW	5.49

4. Notice of the application for transfer was published on July 25, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
5. On February 7, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10215 to the applicant. The cover letter that accompanied the draft Preliminary Determination set forth a deadline of March 14, 2007, in which the applicant could respond. The applicant did not respond by the deadline.
6. On April 13, 2007, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10215 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on April 17, 2007, pursuant to ORS 540.520 and OAR 690-380-4020(1). No protests were filed in response to the Department's weekly notice.
7. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. A diversion structure and ditch 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-10215.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

Conclusions of Law

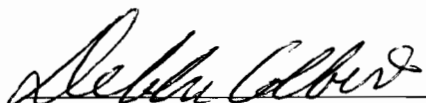
The proposed change in place of use in application T-10215 is consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The proposed change in place of use in application T-10215 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 46779 and any related decree.
3. Certificate 46779 is cancelled. A new certificate will be issued describing that portion of the right not involved in this transfer.
4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
5. The former place of use of the transferred water shall no longer receive water as part of this right.
6. Prior to diverting water, 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.
7. When satisfactory proof of the completed change is received, a new certificate confirming the portion of the right transferred will be issued.

Dated at Salem, Oregon this 31ST day of May 2007.


Phillip C. Ward, Director

Mailing date: JUN 04 2007