

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

In the Matter of Transfer Application)	FINAL ORDER INCORPORATING
T-11907, Klamath County)	SETTLEMENT AGREEMENT AND
)	APPROVING A CHANGE IN POINT
)	OF APPROPRIATION

Authority

Oregon Revised Statutes (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 Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

STEELHEAD LLC
MICHAEL THOMASON
7090 N MARKS AVE
FRESNO, CA 93711

Findings of Fact

1. On October 22, 2014, STEELHEAD LLC, represented by Michael Thomason, filed an application to change the point of appropriation under Water Right Permit G-11263. The Department assigned the application number T-11907.
2. Notice of the application for transfer was published on November 4, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 18, 2015, the Department issued the confirming water right Certificate 90980, in the name of Steelhead LLC.
4. On December 29, 2015, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11907 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 28, 2016, for the applicant to respond.

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 January 25, 2016, Greg Kupillas, acting agent for the applicant, requested reconsideration on a few of the conditions included in the Draft Preliminary Determination. The Department has reconsidered these conditions and removed the groundwater level decline conditions, however, at that time, it was determined that the groundwater level measurement and reporting condition and metering requirements were to remain.
6. On February 8, 2016, the Department mailed a copy of the amended draft Preliminary Determination proposing to approve Transfer Application T-11907 to the applicant and agent. 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.
7. On February 22, 2016, the Department issued a Preliminary Determination proposing to approve Transfer T-11907 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on March 1, 2016, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
8. On March 31, 2016, the applicant submitted a Protest of the Preliminary Determination. No other timely protests were received.
9. On June 9, 2016, the Department and the Applicant executed a settlement agreement. This Final Order reflects modifications agreed upon as a result of the settlement agreement which is incorporated herein by reference in its entirety.
10. The right to be transferred is as follows:

Certificate: 90980 in the name of STEELHEAD, LLC (perfected under Permit G-11263)
Use: IRRIGATION of 146.2 ACRES
Priority Date: OCTOBER 22, 1990
Rate: 1.83 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, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL within the LOST RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	10 E	WM	8	NE NW	20 FEET SOUTH AND 518 FEET WEST FROM THE N1/4 CORNER OF SECTION 8

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	10 E	WM	8	NW NE	33.3
39 S	10 E	WM	8	SW NE	21.3
39 S	10 E	WM	8	NE NW	23.1
39 S	10 E	WM	8	NW NW	12.4
39 S	10 E	WM	8	SE NW	33.5
39 S	10 E	WM	8	NE SW	13.2
39 S	10 E	WM	8	NW SE	9.4
Total					146.2

11. Transfer Application T-11907 proposes to move the authorized point of appropriation approximately 45 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	10 E	WM	8	NE NW	65 FEET SOUTH AND 519 FEET WEST FROM THE N1/4 CORNER OF SECTION 8

Transfer Review Criteria (OAR 690-380-4010)

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 right is subject to forfeiture under ORS 540.610.
13. 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-11907.
14. The proposed change would not result in enlargement of the right.
15. The proposed change would not result in injury to other water rights.
16. All other application requirements are met.

Conclusions of Law

The change in point of appropriation proposed in Transfer Application T-11907 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-11907 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 90980 and any related decree.
3. Water right Certificate 90980 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. If the number, location, source, or construction of any well deviates from that proposed in the application or required by conditions, this certificate may be subject to cancellation, unless the Department authorizes the change in writing.
6. Groundwater production from all new points of appropriation (wells) shall occur from the predominantly basalt-volcanic rock and sediment unit below the predominantly basin-fill sediment unit by having at minimum continuous casing and continuous seal from above land surface, completely through the predominantly basin-fill sediment unit, and into the predominantly basalt-volcanic rock and sediment unit. (The driller shall consult with a hydrogeologist in the Department's Groundwater Section in Salem, and the Department's lead well inspector in the Department's Well Enforcement Section in Salem.)
7. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
8. 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.
9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 22 day of June, 2016.



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

JUN 29 2016
Mailing date: _____