

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

In the Matter of Transfer Application            )     FINAL ORDER  
T-11545, Marion County                         )     APPROVING OF A CHANGE 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.

**Applicants**

US FISH AND WILDLIFE SERVICE  
C/O TIM MAYER  
911 NE 11<sup>TH</sup> AVENUE  
PORTLAND, OR 97232-4181

SIDNEY IRRIGATION COOPERATIVE  
C/O MIKE PIESKER, CHAIR  
PO BOX 736  
JEFFERSON, OR 97352

**Findings of Fact**

**Background**

1. On March 12, 2013, US FISH AND WILDLIFE SERVICE AND SIDNEY IRRIGATION COOPERATIVE filed an application to change the place of use under Certificate 54310. The Department assigned the application number T-11545.
2. Notice of the application for transfer was published on March 19, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On July 15, 2013, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11545 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of August 14, 2013, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination.

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.

4. On July 23, 2013, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11545 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on August 6, 2013 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

**Certificate:** 54310 in the name of SIDNEY IRRIGATION COOPERATIVE (confirmed by North Santiam River decree)

**Use:** IRRIGATION OF 29.8 ACRES

**Priority Date:** MAY 14, 1909

**Rate:** 0.37 CUBIC FOOT PER SECOND

**Limit/Duty:** NOTE: To compensate for losses between the point of diversion to the place of use, an additional amount not exceeding ten percent is allowed.

**Source:** NORTH SANTIAM RIVER, tributary to the SANTIAM RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	2 W	WM	34	SW NE	50 FEET NORTH AND 1930 FEET EAST FROM THE E <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 34.

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
9 S	3 W	WM	16	SE NW		1.6
9 S	3 W	WM	16	NE SW		0.3
9 S	3 W	WM	16	NW SW		11.2
9 S	3 W	WM	16	SW SW		6.7
9 S	3 W	WM	16	SE SW	3	2.5
9 S	3 W	WM	16	NW SE	2	1.9
9 S	3 W	WM	17	NE SE	2	5.6
Total						29.8

6. Transfer Application T-11545 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
9 S	3 W	WM	16	SW SW		9.2
9 S	3 W	WM	17	NE SE	2	5.2
9 S	3 W	WM	21	NW NW	1	15.4
Total						29.8

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

7. 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.

8. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-11545.
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.

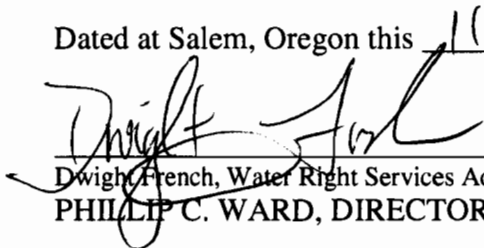
### Conclusions of Law

The change in place of use proposed in Transfer Application T-11545 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-11545 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 54310 and any related decree.
3. Water Right Certificate 54310 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The former place of use of the transferred right shall no longer receive water under the right.
5. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2014**. 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, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 11 day of September, 2013.

  
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Dwight French, Water Right Services Administrator, for  
PHILLIP C. WARD, DIRECTOR

Mailing date: SEP 12 2013