

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-12527, Lake County)	CHANGE IN PLACE OF USE AND
)	PARTIAL DIMINISHMENT OF A
)	WATER RIGHT

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

ANNA MAE ALBERTSON
CREDIT SHELTER TRUST
92022 DOG LAKE RD
LAKEVIEW, OR 97630

Receiving Landowner

LEO H. ALBERTSON, SR.
92022 DOG LAKE RD
LAKEVIEW, OR 97630

Findings of Fact

1. On November 21, 2016, Anna Mae Albertson Credit Shelter Trust filed an application to change the place of use under Certificate 85839. The Department assigned the application number T-12527.
2. Leo H. Albertson, Sr. is the receiving landowner who will be responsible for completion of the changes.
3. Notice of the application for transfer was published on December 6, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. On March 22, 2017, the Department received items resolving the potential layering of water rights on behalf of Leo H. Albertson, Sr., the landowner.
5. On March 15, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12527 to the applicants. On March 31, 2017, the Department revised the Preliminary Determination correcting scrivener's errors. The draft Preliminary Determination cover letter set forth a deadline of April 29, 2017, for the applicants to respond. The applicants 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.

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.

6. On March 15, 2017, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12527 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 16, 2017 for the applicant to respond. 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 May 31, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-12527 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 June 6, 2017, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
8. The portion of the right to be transferred is as follows:

Certificate: 85839 in the name of LAKEVIEW WATER USERS, INC.
Use: IRRIGATION OF 10.0 ACRES
Priority Dates: JANUARY 21, 1907, JULY 31, 1908
Rate: 0.37 CUBIC FEET PER SECOND (CFS), BEING 0.19 CFS FROM DREWS CREEK AND RESERVOIR AND 0.17 CFS FROM COTTONWOOD CREEK AND RESERVOIR
Source: DREWS CREEK, a tributary of GOOSE LAKE

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Source
38 S	19 E	WM	29	NW SW	580 FEET SOUTH AND 900 FEET EAST FROM THE W 1/4 CORNER OF SECTION 29	Cottonwood Creek Reservoir
39 S	19 E	WM	16	NE NE	860 FEET SOUTH AND 1120 FEET WEST FROM THE NE CORNER OF SECTION 16	Cottonwood Creek
40 S	18 E	WM	5	SW SE	120 FEET NORTH AND 1820 FEET WEST FROM THE SE CORNER OF SECTION 5	Drews Creek Reservoir
40 S	18 E	WM	11	SE NW	1850 FEET SOUTH AND 3400 FEET WEST FROM THE NE CORNER OF SECTION 11	Drews Creek

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	18 E	WM	25	SE SE	10.0

9. Transfer Application T-12527 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	19 E	WM	8	NE NW	0.1
40 S	19 E	WM	8	SE NW	9.9
Total					10.0

Partial Diminution of a Water Right

10. On March 22, 2017, the department received an affidavit requesting that a portion of Certificate 65309 be diminished. The portion of the right to be diminished is as follows:

- Certificate:** 65309 in the name of LEO H. ALBERTSON
(perfected under Permit 45806)
- Use:** PRIMARY IRRIGATION OF 10.0 ACRES
- Priority Dates:** JANUARY 19, 1981
- Rate:** 0.25 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 a diversion of ONE-FORTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year. THE RIGHT ALLOWED HEREIN SHALL BE LIMITED TO ANY DEFICIENCY IN THE AVAILABLE SUPPLY OF ANY PRIOR RIGHT EXISTING FOR THE SAME LAND AND SHALL NOT EXCEED THE LIMITATION ALLOWED HEREIN. THIS RIGHT IS SUBJECT TO THE TERMS AND CONDITIONS OF A STIPULATION WITH LAKEVIEW WATER USERS, INC. DATED MARCH 2, 1981, RECORDED AT VOLUME 6, PAGE 884, MISCELLANEOUS RECORDS OF THE WATER RESOURCES DIRECTOR.
- Source:** AN UNNAMED DRAINAGE WAY, a tributary of GOOSE LAKE

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	19 E	WM	8	SE NW	1980 FEET SOUTH AND 2710 FEET WEST FROM THE NE CORNER OF SECTION 8

Authorized Place of Use to be diminished to Supplemental Irrigation:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	19 E	WM	8	NE NW	0.1
40 S	19 E	WM	8	SE NW	9.9
Total					10.0

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

- 11. Evidence was submitted with the application indicating that 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.
- 12. 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-12527.

13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.

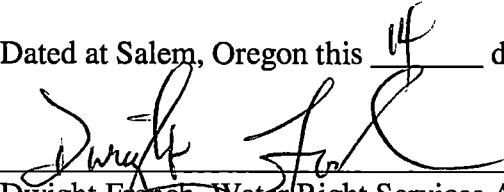
Conclusions of Law

The change in place of use proposed in Transfer Application T-12527 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-12527 is approved. The portion of Certificate 65309 that has been diminished is diminished.
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 85839 and any related decree.
3. Water right Certificate 85839 is modified. The Department will issue a superseding certificate describing those modifications when determined it is necessary for record keeping and will complete the processing of other pending transfers which also modify Certificate 85839.
4. Certificate 68309 is cancelled, a new certificate will be issued describing that portion of the right not affected by this transfer and confirming the portion diminished..
5. The former place of use of the transferred right shall no longer receive water under the right.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. 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 changes and full beneficial use of the water.
7. After satisfactory proof of beneficial use is received, the Department will issue a superseding certificate in the name of Lake Water Users, Inc. describing the right when it determines that it is necessary for record keeping.

Dated at Salem, Oregon this 14 day of July, 2017



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

Mailing date: JUL 18 2017