

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11306, Union County)	CHANGE IN PLACE OF USE,
)	REDESCRIPTION AND PARTIAL
)	CANCELLATION OF A WATER
)	RIGHT

Authority

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

SHERILYN RAYBURN
59099 PIERCE RD
LA GRANDE, OR 97850

Agent

Bagett-Griffith and Blackman
2006 Adams Ave.
LaGrande, OR 97850

Findings of Fact

Background

1. On September 28, 2011, SHERILYN RAYBURN filed an application to change the place of use under Certificate 60736. The Department assigned the application number T-11306.
2. On December 19, 2011, the agent submitted a revised application map correcting the place of use.

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.

Re-Description of Right

3. Certificate 60736 describes the authorized place of use in the W¹/₂ of Section 20, Township 3 South, Range 39, South, Willamette Meridian, Union County, Oregon, as including 0.2 acre in the SE NW and 0.1 acre in the SW NW of Section within Tax Lots 5202 and 5200.

a) Based on the information gathered from the water right examiner, the 0.1 acre in the SW NW and 0.2 acre in the SE NW acre parcels did not cross the ¹/₄ ¹/₄ aliquot line and these portions of the water right place of use could be more accurately described as being in the NE SW and NW SW of the section.

b) The following table lists the place of use as described in existing certificate 60736 and a proposed re-description based on the above findings:

Certificate	Original Description of Place of Use		Proposed Re-Description of Place of Use	
	¹ / ₄ - ¹ / ₄	Acres	¹ / ₄ - ¹ / ₄	Acres
60736	SW NW	15.1	SW NW	15.0
60736	SE NW	0.2	SE NW	0.0
60736	NE SW	26.7	NE SW	26.9
60736	NW SW	38.3	NW SW	38.4
	Total	80.3	Total	80.3
Township 3 South, Range 39 East, Section 20				

4. The portion of the right to be transferred (based on the re-description) is as follows:

Certificate: 60736 in the name of JOHN AND NANCY RAYBURN (perfected under Permit G-8971)

Use: IRRIGATION of 112.0 ACRES

Priority Date: MARCH 10, 1980

Rate: 1.40 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, is limited to a diversion of 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 MCALISTER SLOUGH BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	39 E	WM	19	SW NE	1380 FEET SOUTH AND 1300 FEET EAST FROM THE N1/4 CORNER OF SECTION 19

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	39 E	WM	19	NE NE	8.9
3 S	39 E	WM	19	SE NE	7.1
3 S	39 E	WM	20	SW NW	5.0
3 S	39 E	WM	20	NE SW	26.9
3 S	39 E	WM	20	SW SW	33.2
3 S	39 E	WM	20	SE SW	30.9

5. Transfer Application T-11306 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	39 E	WM	19	NE NW	28.0
3 S	39 E	WM	19	NW NW	28.0
3 S	39 E	WM	19	SW NW	28.0
3 S	39 E	WM	19	SE NW	28.0

6. An underlying supplemental irrigation water right (Certificate 85112) was found to be appurtenant to 15.0 acres of the proposed place of use described in Finding of Fact #5, in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ within Section 19. The applicant provided the department with an affidavit of partial cancellation to cancel the portion of Certificate 85112 on those lands.
7. Notice of the application for transfer was published on October 11, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
8. On December 6, 2011 the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11306 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 6, 2011, for the applicant to respond. On December 15, 2011, the agent reviewed the draft preliminary determination and sent the department an e-mail addressing some inconsistencies with the authorized place of use. 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.
9. On December 28, 2011, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11306 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 January 3, 2012, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

10. 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.

11. 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-11306.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.

Partial Cancellation of a Water Right

14. On December 12, 2011, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from Sherilyn Rayburn. The right to be cancelled is as follows:

Certificate: 85112 in the name of GRANDE RONDE VALLEY IRRIGATION CO.
(perfected under Permit S-22904)

Use: SUPPLEMENTAL IRRIGATION of 15.0 ACRES

Priority Date: NOVEMBER 24, 1953

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH 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 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: GEKELER SLOUGH, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
3 S	38 E	WM	15	SW NW

Authorized Place of Use to be Cancelled:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	39 E	WM	19	NE NW	15.0

Conclusions of Law

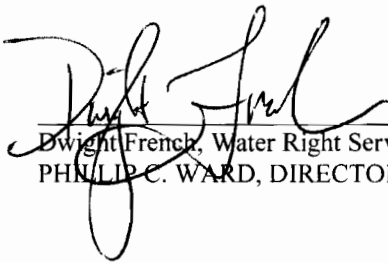
The change in change in place of use proposed in Transfer Application T-11306 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the abandoned right should be cancelled.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in application T-11306 is approved. The portion of Certificate 85112 that has been abandoned is cancelled and a new certificate will be issued to describe the remaining portion of the right.

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 60736 and any related decree.
3. Water right certificate 60736 is cancelled. A new certificate will be issued describing that portion of the right (as re-described) not affected by this transfer and cancellation.
4. The Director may require the water user to install a totalizing flow meter or other suitable measuring device at the point of appropriation. If the Director notifies the water user to install a totalizing flow meter or other measuring device, the water user shall install such device specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meter or measuring device in good working order and shall allow the Watermaster access to the meter or measuring device.
5. The former place of use of the transferred right shall no longer receive water under the right.
6. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**. 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. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 3 day of February, 2012.



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

Mailing date: FEB 09 2012

