

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

In the Matter of Transfer Application            )     FINAL ORDER APPROVING A  
T-11633, Malheur County                         )     CHANGE 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**

SKINNER RANCHES, INC.  
ROBERT M. SKINNER  
3280 SKINNER RD  
JORDAN VALLEY, OR 97910

**Findings of Fact**

1. On July 3, 2013, SKINNER RANCHES, INC., ROBERT SKINNER, filed an application to change the place of use under Certificate 35808. The Department assigned the application number T-11633.
2. Notice of the application for transfer was published on July 9, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 10, 2014, the applicant's agent submitted a revised Table 2 for the application, for both Tract 3 and Tract 5. The revised tables clarify the "From" and "To" lands and bring them into agreement with the transfer application maps.
4. On February 5, 2013, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11633 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 5, 2013, for the applicant to respond. The applicant's agent notified the Department of errors in the section number in both the authorized and proposed place of use. The applicants requested that the Department correct the errors and 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.

5. On March 17, 2014, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11633 and sent 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 18, 2014, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The portion of the right to be transferred is as follows:  
**Certificate:** 35808 in the name of W. S. SKINNER (confirmed by Owyhee River Decree)  
**Use:** IRRIGATION OF 115.2 ACRES  
**Priority Date:** 1869 for Tract No. 3; Tract No. 5 without date of priority  
**Limit/Duty:** Tracts Nos. 3: shall not exceed 2 acre feet per acre prior to June 1<sup>st</sup>, and ½ acre foot per acre during any calendar month after June 1<sup>st</sup>, of each irrigation season from April 1<sup>st</sup> to October 15<sup>th</sup>;  
 Tract 5: The following are willow and rye grass lands, allowed a right by said decree, without date of priority, with the provision that such lands may receive not in excess of 2 acre feet of water per acre prior to June 1<sup>st</sup> of each year, and shall not receive water thereafter.  
**Source:** JORDAN CREEK for Tract No. 3; Jordan Creek willow and rye grass lands for Tract No. 5

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tract
30 S	44 E	WM	24	NW SW	14.5	3
30 S	44 E	WM	24	SW SW	36.3	3
30 S	44 E	WM	24	SE SW	24.2	3
30 S	44 E	WM	24	NE SW	6.7	5
30 S	44 E	WM	24	NE SW	10.6	3
30 S	44 E	WM	24	NW SW	5.8	5
30 S	44 E	WM	24	NW SE	17.1	5
Total:					115.2	

7. Transfer Application T-11633 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tract
30 S	44 E	WM	24	NW SW	14.5	5
30 S	44 E	WM	24	NE SW	10.6	5
30 S	44 E	WM	24	NE SW	6.7	3
30 S	44 E	WM	24	NW SW	5.8	3
30 S	44 E	WM	24	SE SW	4.5	5
30 S	44 E	WM	24	NW SE	17.1	3
30 S	44 E	WM	24	SE NE	18.2	3
30 S	44 E	WM	24	NE SE	37.8	3
Total:					115.2	

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

8. 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.
9. 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-11633.
10. The proposed change would not result in enlargement of the right.
11. 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-11633 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-11633 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 35808 and any related decree.
3. Water right Certificate 35808 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. When required by the Department the water user shall install and maintain measurement devices or a headgate to control and regulate the quantity of water diverted. If required, the type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.
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, 2015**. 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.

7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 29 day of April 2014.

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

Mailing Date: MAY 02 2014