

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-9172, Crook County) 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.

Applicant

Quail Valley Ranch, LLC
William E. Colson, Manager
9310 Vancouver Mall Dr., Suite 200
Vancouver, WA 98662

Findings of Fact

Background

1. On August 29, 2002, William E. Colson, Manager on behalf of Quail Valley Ranch, LLC filed an application to change the place of use under Certificates 75633, 51560 and 57614. The Department assigned the application number T-9172.
2. Certificate 75633 has been superseded by Certificate 80795. Certificate 51560 has been superseded by 83441 and Certificate 57614 has been superseded by Certificate 83443.
3. The portion of the first right to be transferred is as follows:

Certificate: 80795 in the name of U. S. Bureau of Reclamation (perfected under Permit S-25991)

Use: IRRIGATION of 80.0 ACRES

Priority Date: APRIL 8, 1914

Rate: 2.02 CUBIC FEET PER SECOND (cfs)

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 4.0 acre-feet per acre per year from direct flow and storage from Prineville Reservoir. Use of the water requires the existence of a current contract between the landowners and United States Bureau of Reclamation.

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.

Source: PRINEVILLE RESERVOIR (constructed under Permit R-2223), tributary to DESCHUTES RIVER

Authorized Point of Diversion:

Twtp	Rng	Mer	Sec	Q-Q	Survey Coordinates
15 S	15 E	WM	36	SE NE	DIRECT DIVERSION #10 - 1530 FEET SOUTH AND 30 FEET WEST FROM THE NE CORNER OF SECTION 36
17 S	16 E	WM	11	SW NW	BOWMAN DAM - 1650 FEET SOUTH AND 300 FEET EAST FROM THE NW CORNER OF SECTION 11

Authorized Place of Use:

Twtp	Rng	Mer	Sec	Q-Q	GLot	Acres
15 S	15 E	WM	36	NE SE		7.0
15 S	15 E	WM	36	SE SE		8.9
15 S	16 E	WM	31	SW NW	2	8.0
15 S	16 E	WM	31	NW SW	3	27.1
15 S	16 E	WM	31	SW SW	4	29.0
Total						80.0

4. Application T-9172 also proposes to change the place of use of the right to:

Twtp	Rng	Mer	Sec	Q-Q	GLot	Acres
15 S	15 E	WM	36	NE SE		3.3
15 S	15 E	WM	36	SE SE		12.4
15 S	16 E	WM	31	SW NW	2	9.7
15 S	16 E	WM	31	NW SW	3	22.7
15 S	16 E	WM	31	SW SW	4	31.9
Total						80.0

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

Certificate: 83441 in the name of Merrill L. Nash (perfected under Permit E-39)

Use: IRRIGATION of 4.3 ACRES

Priority Date: FEBRUARY 28, 1909

Rate: 0.05 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre during the irrigation season of each year

Source: CROOKED RIVER, tributary to DESCHUTES RIVER

Authorized Point of Diversion:

Twtp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
15 S	16 E	WM	30	SW SW	4	POD A - 60 FEET NORTH AND 600 FEET EAST FROM THE SE CORNER OF SECTION 30

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	15 E	WM	25	SW SE	3.6
15 S	15 E	WM	25	SE SE	0.7
Total					4.3

6. Application T-9172 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	16 E	WM	30	NE NW	0.3
15 S	16 E	WM	30	SE NW	1.6
15 S	16 E	WM	31	NW NW	2.4
Total					4.3

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

Certificate: 83443 in the name of U. S. Bureau of Reclamation (perfected under Permit S-25991)

Use: SUPPLEMENTAL IRRIGATION of 4.3 ACRES

Priority Date: APRIL 8, 1914

Rate: 0.11 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 4.0 acre-feet per acre per year, from direct flow and storage from the reservoir constructed under Permit R-2223, and shall be further required to have a contract between the landowners and the Bureau of Reclamation.

Source: CROOKED RIVER and PRINEVILLE RESERVOIR, tributaries to Deschutes River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
16 S	15 E	WM	1	NW NE	300 FEET SOUTH AND 470 FEET EAST FROM THE N1/4 CORNER OF SECTION 1
17 S	16 E	WM	11	SW NW	1650 FEET SOUTH AND 300 FEET EAST FROM THE NW CORNER OF SECTION 11

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	15 E	WM	25	SW SE	3.6
15 S	15 E	WM	25	SE SE	0.7
Total					4.3

8. Application T-9172 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	16 E	WM	30	NE NW	0.3
15 S	16 E	WM	30	SE NW	1.6

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	16 E	WM	31	NW NW	2.4
Total					4.3

9. Notice of the application for transfer was published on July 30, 2002, pursuant to OAR 690-380-4000. The U. S. Bureau of Reclamation filed a protest on August 29, 2002. On February 4, 2005, the U. S. Bureau of Reclamation withdrew their protest. No other comments were filed in response to the notice.
10. On October 3, 2007, the Department mailed a copy of the *draft* Preliminary Determination proposing to approve Transfer Application T-9172 to the applicants. The cover letter that accompanied the *draft* Preliminary Determination set forth a deadline of November 5, 2007, for the applicants to respond. On December 10, 2007 the applicants provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
11. On January 29, 2008, the Department issued a Preliminary Determination proposing to approve Transfer Application T-9172 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on February 5, 2008, 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(2)]

12. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
13. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Application T-9172.
14. The proposed change would not result in enlargement of the rights.
15. The proposed change would not result in injury to other water rights.

Conclusions of Law

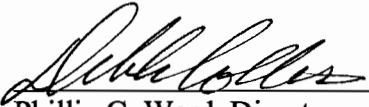
The changes in place of use proposed in Transfer Application T-9172 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in place of use proposed in application T-9172 are approved.
2. Water right Certificates 83441, 80795 and 83443 are cancelled. New certificates will be issued describing that portion of the right not affected by this transfer.

3. 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 Certificates 80795, 83441, and 83443 and any related decree.
4. The former place of use of the transferred rights shall no longer receive water under the rights.
5. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2009. A Claim of Beneficial Use prepared by a Certified Water Rights 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.
6. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 7th day of March, 2008.


Phillip C. Ward, Director

Mailing date: MAR 13 2008