

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

In the Matter of Transfer Application)
T-9658, Lake County)
)
) **FINAL ORDER**
) **APPROVING A CHANGE IN PLACE**
) **OF USE AND PARTIAL DIMINUTION**
) **OF A WATER RIGHT PERMIT**

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

LAKEVIEW WATER USERS INC.
91164 WATER USERS LANE
LAKEVIEW OR 97630

Findings of Fact

1. On February 25, 2004, Lakeview Water Users Inc. filed a transfer application to change the place of use under Certificate 76187. The Department assigned the application number T-9658.
2. On January 23, 2006, a letter was sent to the applicant outlining deficiencies that were found within the transfer application.
3. On June 22, 2006, the Department received certified mail with amended application, map, and documentation to proceed with processing.
4. On June 22, 2006, Mr. Tim Yocum called and confirmed that the applicant intended to transfer the supplemental water permit 43956 as part of the transfer application for the primary water right.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either 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. The portion of the primary right to be transferred is as follows:
Certificate: 76187 in the name of LAKEVIEW WATER USERS INC. (confirmed by Goose Lake (S) decree)
Use: IRRIGATION of 50.0 ACRES
Priority Date: JANUARY 21, 1907 - Drews Creek; JULY 31, 1908 - Cottonwood Creek
Rate: 1.84 cubic feet per second (cfs); 0.97 cfs from Drews Creek and Reservoir and 0.87 cfs from Cottonwood Creek and Reservoir
Source: Drews Creek, Drews Reservoir, Cottonwood Creek, and Cottonwood Reservoir, tributary to Goose Lake

Authorized Points of Diversion:

| Twp | Rng | Mer | Sec | Q-Q | Survey Coordinates |
|------|------|-----|-----|-------|--|
| 38 S | 19 E | WM | 29 | NW SW | COTTONWOOD CREEK RESERVOIR - 580 FEET SOUTH AND 900 FEET EAST FROM THE W1/4 CORNER OF SECTION 29 |
| 39 S | 19 E | WM | 16 | NE NE | COTTONWOOD CREEK - 860 FEET SOUTH AND 1120 FEET WEST FROM THE NE CORNER OF SECTION 16 |
| 40 S | 18 E | WM | 5 | SW SE | DREWS CREEK RESERVOIR - 120 FEET NORTH AND 1820 FEET WEST FROM THE SE CORNER OF SECTION 5 |
| 40 S | 18 E | WM | 11 | SE NW | DREWS CREEK - 1850 FEET SOUTH AND 3400 FEET WEST FROM THE NE CORNER OF SECTION 11 |

Authorized Place of Use:

| Twp | Rng | Mer | Sec | Q-Q | Acres |
|------|------|-----|-----|-------|-------|
| 39 S | 19 E | WM | 26 | NE SW | 40.0 |
| 39 S | 19 E | WM | 26 | NW SW | 10.0 |

6. Application T-9658 proposes to change the place of use of the right to:

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 39 S | 19 E | WM | 29 | NE SE | 6.41 |
| 39 S | 19 E | WM | 29 | SE NE | 2.53 |
| 40 S | 19 E | WM | 19 | NW NW | 13.64 |
| 40 S | 19 E | WM | 19 | SW NW | 27.42 |
| Total | | | | | 50.00 |

7. The portion of the supplemental permit to be transferred is as follows:

Permit: S-43956 in the name of Lakeview Water Users, Inc.

Use: SUPPLEMENTAL IRRIGATION of 50.0 ACRES

Priority Date: SEPTEMBER 5, 1961

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year, provide further that 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.

Source: Cottonwood Reservoir, tributary to Cottonwood Creek

Authorized Point of Diversion:

| Twp | Rng | Mer | Sec | Q-Q | Survey Coordinates |
|------|------|-----|-----|-------|--|
| 38 S | 19 E | WM | 29 | NW SW | 2171 FEET NORTH AND 778 FEET EAST FROM THE CORNER COMMON TO SECS.29, 30, 31 and 32 |

Authorized Place of Use:

| Twp | Rng | Mer | Sec | Q-Q | Acres |
|------|------|-----|-----|-------|-------|
| 39 S | 19 E | WM | 26 | NE SW | 40.0 |
| 39 S | 19 E | WM | 26 | NW SW | 10.0 |

8. Application T-9658 proposes to change the place of use of the permit to:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 39 S | 19 E | WM | 29 | NE SE | 6.41 |
| 39 S | 19 E | WM | 29 | SE NE | 2.53 |
| 40 S | 19 E | WM | 19 | NW NW | 13.64 |
| 40 S | 19 E | WM | 19 | SW NW | 27.42 |
| Total | | | | | 50.00 |

9. An affidavit for partial diminution of a water permit was received from Yocum Family Trust as follows:

Permit: G-13070 in the name of JOHN YOCUM

Use: IRRIGATION of 8.94 ACRES

Priority Date: MARCH 29, 1993

Rate: 0.11 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: WELL 1 in the GOOSE LAKE BASIN

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Survey Coordinates |
|------|------|-----|-----|-------|---|
| 39 S | 19 E | WM | 29 | NE SE | WELL 1 - 2230 FEET NORTH AND 260 FEET WEST FROM THE SE CORNER OF SECTION 29 |

Authorized Place of Use to be diminished to SUPPLEMENTAL IRRIGATION:

| SUPPLEMENTAL IRRIGATION | | | | | |
|--------------------------------|------------|------------|------------|------------|--------------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 39 S | 19 E | WM | 29 | NE SE | 6.41 |
| 39 S | 19 E | WM | 29 | SE NE | 2.53 |

10. Notice of the application for transfer was published on March 30, 2004, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
11. On September 7, 2006, the Department issued a preliminary determination proposing to approve Transfer T-9658 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 September 12, 2006, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
12. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available 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 right are present.
14. The proposed change would not result in enlargement of the right.
15. The proposed change would not result in injury to other water rights.

Conclusions of Law

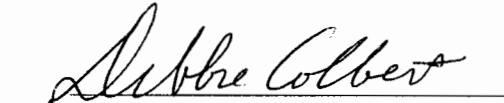
The proposed change in place of use and partial diminution of a water permit in application T-9658 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in application T-9658 is approved.
2. The water right permit for the irrigation of 8.94 acres under Permit G-13070 as described in Finding of Fact #9 is diminished from primary irrigation to supplemental irrigation.
3. The right to the use of the water is restricted to beneficial use at the place of use described in this order and is subject to all other conditions and limitations contained in Certificate 76187, Permit 43956, and Permit G-13070.
4. Upon approval of this transfer, Certificate 76187 shall be modified. The Department will issue a superseding certificate on a determination that it is necessary to produce a certificate describing the right.

5. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. 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. The former place of use shall no longer be irrigated as part of these water rights.

Dated at Salem, Oregon this 20th day of October 2006.


Phillip C. Ward, Director

Mailing date: OCT 23 2006