

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

In the Matter of Transfer Application)
T-9171, Crook County)

FINAL ORDER

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

Bobby Kennedy
2750 South Crooked River Highway
Prineville OR 97754

Agent

Duane Clark
62637 Hawkview Rd
Bend OR 97701

Findings of Fact

1. On July 5 2002, Bobby Kennedy filed a transfer application to change the place of use and point of diversion under Certificate 76012. The Department assigned the application number T-9171.
2. Certificate 76012 does not refer to the lands proposed for transfer; instead Certificates 80713 and 80714 describe rights related to proof of transfer 7487, upon which T-9171 is contingent. Certificate 80714 describes the primary irrigation right for the lands proposed for transfer; Certificate 80713 describes a supplemental right appurtenant to the same land.
3. On July 12, 2004, applicant's agent was notified that the proposed transfer would uncouple the primary irrigation right from a related supplemental right. Agent requested that the supplemental right be transferred as well.

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.

4. The portion of the first right to be transferred is as follows:

Certificate: 80713 in the name of WHITE DEER RANCH (J. FREEDMAN) and BOBBY KENNEDY (perfected under Permit S-25991)

Use: SUPPLEMENTAL IRRIGATION of 29.5 ACRES

Priority Date: APRIL 8, 1914

Rate: 0.74 CUBIC FEET PER SECOND

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 4 acre-feet per acre per year

Source: CROOKED RIVER and PRINEVILLE RESERVOIR, tributaries to DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
15 S	16 E	WM	8	NW SW		CROOKED RIVER (KENNEDY PUMP) - 1870 FEET NORTH & 400 FEET EAST FROM SW CORNER, SECTION 8
16 S	15 E	WM	1	NW NE	2	RICE BALDWIN DITCH - 300 FEET SOUTH & 470 FEET EAST FROM N1/4 CORNER, SECTION 1
17 S	16 E	WM	11	SW NW		BOWMAN DAM - 1650 FEET SOUTH & 300 FEET EAST FROM NW CORNER, SECTION 11

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	16 E	WM	17	NE NW	9.6
15 S	16 E	WM	17	NW NW	19.9

5. Application T-9171 proposes to move the authorized point of diversion approximately 4 miles upstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
15 S	15 E	WM	36	SW SE	DIVERSION PT 9 - 60 FEET NORTH AND 1940 FEET WEST OF SE CORNER, SECTION 36

6. Application T-9171 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	16 E	WM	31	NW NW	3.2
15 S	16 E	WM	31	SW NW	2.2
16 S	15 E	WM	1	NE NE	2.8
16 S	15 E	WM	1	NW NE	18.0
16 S	15 E	WM	1	NE NW	3.3

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

Certificate: 80714 in the name of in the name of WHITE DEER RANCH
 (J. FREEDMAN) and BOBBY KENNEDY (confirmed by Crooked River decree)
Use: IRRIGATION of 29.5 ACRES
Priority Date: DECEMBER 31, 1893
Rate: 0.37 CUBIC FEET PER SECOND
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 4 acre-feet per acre per year
Source: CROOKED RIVER, tributary to DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
15 S	16 E	WM	8	NW SW		CROOKED RIVER (KENNEDY PUMP) - 1870 FEET NORTH & 400 FEET EAST FROM SW CORNER, SECTION 8
16 S	15 E	WM	1	NW NE	2	RICE BALDWIN DITCH - 300 FEET SOUTH & 470 FEET EAST FROM N1/4 CORNER, SECTION 1

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	16 E	WM	17	NE NW	9.6
15 S	16 E	WM	17	NW NW	19.9

8. Application T-9171 proposes to move the authorized point of diversion approximately 4 miles upstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
15 S	15 E	WM	36	SW SE	DIVERSION PT 9 - 60 FEET NORTH AND 1940 FEET WEST OF SE CORNER, SECTION 36

9. Application T-9171 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	16 E	WM	31	NW NW	3.2
15 S	16 E	WM	31	SW NW	2.2
16 S	15 E	WM	1	NE NE	2.8
16 S	15 E	WM	1	NW NE	18.0
16 S	15 E	WM	1	NE NW	3.3

10. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.

11. 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.

12. A delivery system sufficient to use the full amount of water allowed under the existing right is present.

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 proposed changes in place of use and point of diversion in application T-9171 are consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

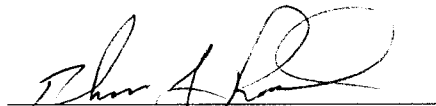
Now, therefore, it is ORDERED:

The changes in point of diversion and place of use proposed in T-9171 are approved; subsequent use of water shall be subject to the following conditions:

1. 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 80713 and 80714 and any related decree.
2. The proposed changes shall be completed on or before October 1, 2006.
3. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2007.
4. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available for the transferred water at the original point of diversion.
5. The former place of use of the transferred water shall no longer receive water as part of these rights.
6. Prior to diverting water, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
7. Certificates 80713 and 80714 are cancelled; Certificates 80854 and 80855 shall be issued to describe the remaining rights unaffected by T-9171.
8. The receiving landowner responsible for completion of all changes shall be:

Quail Valley Ranch II LLC
PO BOX 14111
Salem OR 97309

Dated at Salem, Oregon this 15th day of MARCH 2005.


Phillip C. Ward, Director

Mailing date: MAR 17 2005