

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11205, Lane 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

LARRY W. NULL
DOROTHEA M. NULL
PO BOX 2716
FLORENCE OR 97439

Receiving Landowner

BYRON L. NOFREY
SUSAN C. NOFREY
12000 E. MAPLETON ROAD
MAPLETON OR 97453

Findings of Fact

Background

1. On March 9, 2011, Larry W. and Dorothea M. Null filed an application to change the place of use under Certificate 84576. The Department assigned the application number T-11205.
2. The portion of the right to be transferred is as follows:
 - Certificate:** 84576 in the name of LARRY W. AND DOROTHEA M. NULL (perfected under Permit S-52221)
 - Use:** DOMESTIC USE EXPANDED FOR ONE HOUSEHOLD, FURTHER LIMITED TO HUMAN CONSUMPTION
 - Priority Date:** NOVEMBER 22, 1993
 - Rate:** 0.005 CUBIC FOOT PER SECOND
 - Limit/Duty:** The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.005 cubic foot per second – domestic use expanded for 1 household; further limited to 0.005 cfs human consumption only, measured at the point of diversion.

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.

Period of Use: January 1 through June 15 and September 16 through December 31 for domestic use expanded; further limited to 0.005 cfs June 16 through September 15 for human consumption only.

Source: SIUSLAW RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	10 W	WM	23	NW SW	SOUTH 53 DEGREES 14 MINUTES EAST, 1161 FEET FROM THE W¼ CORNER OF SECTION 23

Authorized Place of Use:

DOMESTIC EXPANDED AND HUMAN CONSUMPTION					
Twp	Rng	Mer	Sec	Q-Q	Tax Lot
17 S	10 W	WM	23	NW SW	302

3. Transfer Application T-11205 proposes to change the place of use of the right to:

DOMESTIC EXPANDED AND HUMAN CONSUMPTION					
Twp	Rng	Mer	Sec	Q-Q	Tax Lot
17 S	10 W	WM	23	NW SW	400

4. Notice of the application for transfer was published on March 15, 2011, pursuant to OAR 690-3809-4000. No comments were filed in response to the notice.
5. On April 15, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11205 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of May 15, 2011, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
6. On April 26, 2011, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11205 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 May 3, 2011, 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)]

7. 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.
8. 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-11205.
9. The proposed change would not result in enlargement of the right.

10. 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-11205 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-11205 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 84576 and any related decree.
3. Water right certificate 84576 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The Director may require the water user to install a totalizing flow meter or other suitable measuring devices at each point of diversion. If the Director notifies the water user to install totalizing flow meters or other measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices.
5. The water user shall maintain and operate fish screening to prevent fish from entering the diversion.
6. The former place of use of the transferred right shall no longer receive water under the right.
7. The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.
8. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. 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.
9. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 3 day of June 2011.



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

Mailing date: JUN 07 2011