

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

In the Matter of Transfer Application                    )     FINAL ORDER APPROVING A  
T-8314, Lake 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**

BOBBY R. and BILLIE L. EVANS  
c/o EVANS & BARTLETT CPAs LLP  
411 CENTER STREET  
LAKEVIEW, OR 97630

**Findings of Fact**

**Background**

1. On July 28, 1999, Bobby R. and Billie L. Evans filed an application to change the place of use under Certificate 51395. The Department assigned the application number T-8314.
2. The portion of the right to be transferred is as follows:  
**Certificate:** 51395 in the name of Everett J. and Dorothy L. Becraft (perfected under Permit G-3529)  
**Use:** IRRIGATION of 44.76 ACRES  
**Priority Date:** July 12, 1967  
**Rate:** 0.47 CUBIC FOOR PER SECOND  
**Source:** A WELL, in the MILL CREEK BASIN

**Authorized Point of Diversion:**

TWP	RNG	MER	SEC	Q-Q	MEASURED DISTANCES
40 S	18 E	W.M.	24	SE SE	400 FEET NORTH AND 1,300 FEET WEST FROM THE SE CORNER OF SECTION 24

This is a final 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 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.

**Authorized Place of Use:**

TWP	RNG	MER	SEC	Q-Q	ACRES
40 S	18 E	W.M.	25	NE NW	14.66
40 S	18 E	W.M.	25	NW NW	5.00
40 S	18 E	W.M.	25	SW NW	1.10
40 S	18 E	W.M.	25	SE NW	24.00
TOTAL:					44.76

3. Application T-8314 proposes to change the place of use of the right to:

TWP	RNG	MER	SEC	Q-Q	ACRES
40 S	18 E	W.M.	24	NE SE	26.70
40 S	18 E	W.M.	24	NW SE	3.0
40 S	18 E	W.M.	24	SE SE	0.30
40 S	18 E	W.M.	24	SE SW	12.79
40 S	18 E	W.M.	25	NE NW	1.97
TOTAL:					44.76

4. Notice of the application for transfer was published on August 3, 1999, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On January 28, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-8314 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 2, 2011, for the applicants to respond. The applicants failed to respond by the deadline because the draft Preliminary Determination was sent to an address no longer current. However, on April 27, 2011, the applicants requested the Department proceed with issuance of a Preliminary Determination and the Department verified the applicant is authorized to pursue the transfer.
6. On April 29, 2011, the Department issued a Preliminary Determination proposing to approve Transfer Application T-8314 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. No protests were received.

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

7. Water has been used within the five year period prior to submittal of the transfer application 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.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-8314.
9. The proposed change would not result in enlargement of the rights.
10. The proposed change would not result in injury to other water rights.

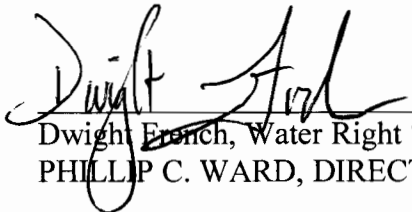
**Conclusions of Law**

The change in place of use proposed in application T-8313 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. The application is approved pursuant to the terms and conditions below.

**Now, therefore, it is ORDERED:**

1. The change in place of use proposed in Transfer Application T-8314 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 51395 and any related permit.
3. Water right certificate 51395 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The former place of use of the transferred right shall no longer receive water under the rights.
5. The Director may require the water user to install a totalizing flow meter or other suitable measuring devices at each point of appropriation. 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.
6. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**.
7. 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 change and full beneficial use of the water.
8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 7 day of June, 2011.



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

Mailing Date: JUN 09 2011