

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-8313, 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

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

Responsible Landowners

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 76187. The Department assigned the application number T-8313.
2. On August 22, 2006, Certificate 76187 was superseded by Certificate 82202. On July 28, 2008, Certificate 82202 was superseded by Certificate 85703. On September 25, 2009, Certificate 85703 was superseded by Certificate 85839.
3. On November 12, 2010, the Department issued an order recorded at Special Order Volume 83, Pages 41 to 42, determining proper proof of changes in place of use under Transfer Application T-5045. The determination of proper proof established the authorized place of use for some of the lands proposed for transfer in Transfer Application T-8313.
4. Transfer Application T-5045 modified a portion of the water rights confirmed by the Goose Lake Decree, and described in the preceding water right certificates issued in the name of Lakeview Water Users, Inc. from which Certificate 85839 derived.

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.

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

Certificate: 85839 in the name of Lakeview Water Users Inc. (confirmed by Goose Lake decree) and the right confirmed under T-5045

Use: IRRIGATION of 50.0 ACRES

Priority Date: JANUARY 21, 1907, Drews Creek; JULY 31, 1908 , Cottonwood Creek

Rate: 1.85 CUBIC FEET PER SECOND (cfs); being 0.975 cfs from Drews Creek and Reservoir and 0.875 cfs from Cottonwood Creek and Reservoir, measured at the point of diversion from the source.

Source: Drews Creek, Drews Reservoir, Cottonwood Creek, and Cottonwood Reservoir, tributaries to Goose Lake

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q-Q	SOURCE	MEASURED DISTANCES
38 S	19 E	W.M.	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	W.M.	16	NE NE	COTTONWOOD CREEK	860 FEET SOUTH AND 1120 FEET WEST FROM THE NE CORNER OF SECTION 16
40 S	18 E	W.M.	5	SW SE	DREWS CREEK RESERVOIR	120 FEET NORTH AND 1820 FEET WEST FROM THE SE CORNER OF SECTION 5
40 S	18 E	W.M.	11	SE NW	DREWS CREEK	1850 FEET SOUTH AND 3400 FEET WEST FROM THE NE CORNER OF SECTION 11

Authorized Place of Use:

WATER RIGHT	TWP	RNG	MER	SEC	Q-Q	ACRES
CERTIFICATE 85839	40 S	18 E	W.M.	24	NE SE	26.7
CERTIFICATE 85839	40 S	18 E	W.M.	24	NW SE	3.0
CERTIFICATE 85839	40 S	18 E	W.M.	24	SE SE	0.3
T-5045	40 S	19 E	W.M.	18	NW SE	20.0
TOTAL:						50.0

6. Application T-8313 proposes to change the place of use of the right to:

TWP	RNG	MER	SEC	Q-Q	ACRES
40 S	18 E	W.M.	25	NE NW	14.44
40 S	18 E	W.M.	25	NW NW	4.84
40 S	18 E	W.M.	25	SW NW	0.50
40 S	18 E	W.M.	25	SE NW	30.22
TOTAL:					50.00

7. 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.
8. On January 28, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-8313 to the applicant and responsible landowners. The draft Preliminary Determination cover letter set forth a deadline of March 2, 2011, for the applicant to respond.
9. The applicant requested the Department proceed with issuance of a Preliminary Determination and the Department verified the applicant is authorized to pursue the transfer.

10. On April 29, 2011, the Department issued a Preliminary Determination proposing to approve Transfer Application T-8313 and mailed a copy to the applicant and responsible landowners. 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)]

11. 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.
12. 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 Transfer Application T-8313.
13. The proposed change would not result in enlargement of the rights.
14. The proposed change would not result in injury to other water rights.

Conclusions of Law

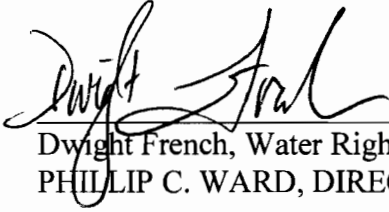
The change in place of use proposed in application T-8313 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-8313 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 T-5045, recorded at Special Order Volume 83, Pages 41 to 42, and Certificate 85839 and any related decree.
3. The water rights described by T-5045 and Certificate 85839 are modified. The Department will issue a superseding certificate describing the right when it determines that is necessary for record keeping.
4. The former place of use of the transferred rights shall no longer receive water under the rights.
5. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**.

6. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the responsible landowners to the Department within one year after the deadline for completion of the change and full beneficial use of the water.

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



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

Mailing Date: JUN 09 2011