

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

In the Matter of Transfer Application) FINAL ORDER APPROVING AN
T-12557, Jefferson County) ADDITIONAL POINT OF DIVERSION

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish 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. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

CAROL WILLIAMS
2777 PINEROCK DRIVE
EUGENE, OR 97403

Findings of Fact

1. On January 6, 2017, CAROL WILLIAMS filed an application for an additional point of diversion under Certificate 88891. The Department assigned the application number T-12557.
2. Notice of the application for transfer was published on January 17, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 9, 2018, the Department contacted the applicant’s agent to notify him of a deficiency in the application.
4. On April 14, 2018, the Department received an Evidence of Use affidavit that resolved the deficiency in the application.
5. On May 10, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12557 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 9, 2018, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
6. On May 10, 2018, the applicant requested the completion date be October 1, 2023.

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.

7. On July 30, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12557 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 August 7, 2018, and in the Bend Bulletin newspaper on August 2 and 9th, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

8. The right to be transferred is as follows:

Certificate: 88891 in the name of CAROL WILLIAMS (confirmed by decree of Circuit Court for Deschutes County entered at Salem, in the Order Record of the Water Resources Director in Volume 9, Page 362.)
Use: IRRIGATION OF 52.5 ACRES, DOMESTIC AND STOCK USE
Priority Date: 1888
Rate: 0.88 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water to which this right is entitled for the purposes aforesaid is limited to an amount actually beneficially used for said purposes, and shall not exceed 3.0 acre-feet per acre measured at the point of diversion from the stream, which may be diverted at a rate of not to exceed 1/60th of one cubic foot per second during the irrigation season and shall be subject to all other conditions and limitations contained in said decree.
Period of Use: MAY 1 TO SEPTEMBER 15
Source: LAKE CREEK, tributary to the NORTH FORK LAKE CREEK

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
13 S	9 E	WM	17	NW SE	POD #1 LATITUDE 44.44246; LONGITUDE -121.68118
13 S	9 E	WM	16	SE NW	POD #2 LATITUDE 44.44579; LONGITUDE -121.66918
13 S	9 E	WM	16	NW NE	POD #3 LATITUDE 44.44685; LONGITUDE -121.66160
13 S	9 E	WM	16	NW NE	POD #4 LATITUDE 44.44679; LONGITUDE -121.66143
13 S	9 E	WM	16	NW NE	POD #5 LATITUDE 44.44679; LONGITUDE -121.66142

Authorized Place of Use:

IRRIGATION, DOMESTIC AND STOCK USE					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	9 E	WM	16	NE NE	6.2
13 S	9 E	WM	16	NW NE	33.7
13 S	9 E	WM	16	SW NE	12.6
Total					52.5

9. Transfer Application T-12557 proposes an additional point of diversion with approximate distances from the existing points of diversion (POD) identified as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates	Approximate Distance from Authorized POD's
13 S	9 E	WM	16	SW NE	POD #6 LATITUDE 44.4456 LONGITUDE -121.6634	POD 1 – 1.1 mile POD 2 – 0.3 mile POD 3 – 0.2 mile POD 4 – 0.2 mile POD 5 – 0.2 mile

10. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

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

11. 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.
12. A diversion structure and ditch 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-12557.
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.
15. All other application requirements are met.

Conclusions of Law

The additional point of diversion proposed in Transfer Application T-12557 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

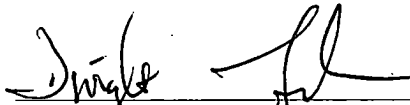
Now, therefore, it is ORDERED:

1. The additional point of diversion proposed in Transfer Application T-12557 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 88891 and any related decree.
3. Water right Certificate 88891 is cancelled.
4. The quantity of water diverted at the additional point of diversion, together with that diverted at the original points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.

5. Water use measurement conditions:
 - a. **Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. 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.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this day SEP 24 2018



~~Dwight French~~ Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: SEP 25 2018