

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

IN THE MATTER OF A LOSS OF RIGHT DUE TO)	
FAILURE TO APPLY WATER TO BENEFICIAL USE)	FINAL ORDER ON REINSTATEMENT
UNDER THE TERMS OF AN ORDER APPROVING)	OF TRANSFER APPLICATION T-8255
T-8255, UNION COUNTY)	

Authority

Oregon Administrative Rule 690-380-6010(2) provides that any part of a transferred water use that is not applied to beneficial use under the terms of the transfer order for change in use or place of use, or within any extension of time allowed for completion, is lost.

Applicant

UNION COUNTY
1106 K AVENUE
LA GRANDE, OR 97850

Findings of Fact

1. On April 26, 1999, UNION COUNTY filed an application to change the place of use and character of use under Certificates 6538 and 45104. The Department assigned the application number T-8255.
2. On June 30, 2003, Transfer Application T-8255 was approved and the order is recorded in Special Order Volume 57, Page 980. Certificates 6538 and 45104 were cancelled and the rights are considered inchoate.
3. The final order set a date of OCTOBER 1, 2008 for the changes to be completed. The claim of beneficial use was due OCTOBER 1, 2009.

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 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. On July 31, 2002, the Department received a Claim of Beneficial Use (COBU) from the applicant.
5. On March 4, 2003, Transfer Application T-8255 was assigned from the CITY OF UNION to UNION COUNTY.
6. On August 4, 2004, the Department contacted the applicant, notifying them the COBU report and map failed to meet the Department's minimum requirements. The COBU map and report were returned to the applicant.
7. On January 11, 2021, the Department contacted the applicant by certified mail, notifying them of an incomplete transfer, and that the rights involved with the transfer could be lost if a Claim of Beneficial Use or an Application for Extension of Time on a Transfer is not received. The Department requested a response by February 11, 2021.
8. On January 19, 2021, the Department received a signed certified mailing card, but the Department did not receive any further response to the incomplete transfer.
9. As of April 26, 2021, no Claim of Beneficial Use showing beneficial use of the inchoate water has been filed with the Department.
10. On July 20, 2021, the Department issued a Final Order (Special Order Volume 121, Page 61), approving a loss of right under Certificate 6538.
11. On May 26, 2022, the Department subsequently discovered that the certified letter sent on January 11, 2021, was sent to the wrong address. The Water Right Information Services database was not updated with the address of the current applicant, when the assignment was completed in 2003.
12. On June 16, 2021, the Department determined the current transfer applicant was not properly notified of the loss of right, due to the certified letter being sent the wrong address; therefore, the current transfer applicant did not have the opportunity to respond.
13. A description of the inchoate rights that are lost are as follows:

Certificate: 6538 in the name of AMANDA M. RINEHART (confirmed by GRANDE RONDE RIVER, CONSOLIDATED Decree)
Use: IRRIGATION OF 22.0 ACRES
Priority Date: 1874
Rate: THREE ACRE FEET PER ACRE IN ANY IRRIGATION SEASON, DIVERTED AT A RATE OF NOT TO EXCEED ONE-FORTIETH OF A CUBIC FOOT PER SECOND PER ACRE
Source: CATHERINE CREEK

Now, therefore, it is ORDERED:

1. Transfer Application T-8255 is reinstated, and all terms and conditions of the final order approving Transfer Application T-8255 approved June 30, 2003, and recorded at Special Order Volume 57, Page 980, remain in effect.

Dated in Salem, Oregon on JUL 27 2022


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M. BYLER, DIRECTOR
Oregon Water Resources Department

Mailing date: JUL 28 2022

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	40 E	WM	19	NE SW	12.0
4 S	40 E	WM	19	NW SE	10.0
Total					22.0

Certificate: 45104 in the name of F. M. RICKER (confirmed by GRANDE RONDE RIVER, CONSOLIDATED Decree)

Use: IRRIGATION OF 12.0 ACRES

Priority Date: 1874

Rate: THREE ACRE FEET PER ACRE IN ANY IRRIGATION SEASON, DIVERTED AT A RATE OF NOT TO EXCEED ONE-FORTIETH OF A CUBIC FOOT PER SECOND PER ACRE

Source: CATHERINE CREEK, a tributary of GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
4 S	40 E	WM	19	NE NE	PRESCOTT DITCH - 850 FEET SOUTH AND 2870 FEET WEST FROM THE N1/4 CORNER OF SECTION 20

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	40 E	WM	19	NE SW	6.0
4 S	40 E	WM	19	NW SE	6.0
Total					12.0

Conclusions of Law

The loss of right described above is consistent with the requirements of OAR 690-380-6010(2). However, the Department erroneously sent notification of the loss of right to the wrong address and the transfer applicant did not have an opportunity to respond to the loss of right. Transfer Application T-8255 should be reinstated.