

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-13278, Polk County) CHANGE IN PLACE OF USE

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

BROADMEAD LLC
JAMES D. AND
HIEDI L. HARPER, MEMBERS
1150 NW QUIMBY ST UNIT 334
PORTLAND, OR 97209

Findings of Fact

1. On October 25, 2019, BROADMEAD LLC, JAMES D. AND HEIDI L. HARPER, MEMBERS, filed an application to change the place of use under Certificate 87954. The Department assigned the application number T-13278.
2. Notice of the application for transfer was published on November 5, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 15, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-13278 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of February 17, 2020, for the applicant to respond.

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.

4. On February 18, 2020, the applicant's agent submitted revisions of application Table 2, the map, and Evidence of Use. The revisions to Table 2 and the map matched the number of "To" and "From" acres for the change in place of use, thereby removing enlargement from the application. The new Evidence of Use correctly called out Certificate 87954. The revisions removed the issues called out in the draft Preliminary Determination to deny.
5. On March 9, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13278 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 9, 2020, 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 July 8, 2020, the Department issued a Preliminary Determination proposing to approve Transfer T-13278 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 July 14, 2020, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. The portion of the right to be transferred is as follows:

Certificate: 87954 in the name of BROADMEAD LLC (perfected under Permit S-50853)
Use: IRRIGATION of 8.07 ACRES
Priority Date: DECEMBER 13, 1989
Rate: 16.98 ACRE-FEET
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: WALKER-VAN OTTEN RESERVOIR CONSTRUCTED UNDER PERMIT R-1405, TRIBUTARY TO SALT CREEK

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	5 W	WM	11	SE SW	47	RE-DIVERSION - 2228 FEET NORTH AND 1405 FEET EAST FROM THE SW CORNER OF JOHN EADES DLC 47

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	5 W	WM	11	SW SW	47	0.88
6 S	5 W	WM	14	NW NW	47	7.19
TOTAL						8.07

8. Transfer Application T-13278 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	5 W	WM	11	NE SW	47	3.40
6 S	5 W	WM	11	SE SW	47	4.67
TOTAL						8.07

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

9. 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.
10. 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-13278.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements have been met.

Conclusions of Law

The change in place of use proposed in Transfer Application T-13278 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-13278 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 87954 and any related decree.
3. Water right Certificate 87954 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. 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 point of diversion, (new or existing).
 - b. The water user shall maintain the meters or measuring devices in good working order.

- c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
5. The former place of use of the transferred right shall no longer receive water under the right.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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.
7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on SEP 03 2020


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

Mailing date: SEP 04 2020