

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

In the Matter of Transfer Application)
T-10653, Crook County)
)
)
)
)
)

FINAL ORDER APPROVING A
CHANGE IN PLACE OF USE AND
TERMINATING A TEMPORARY
TRANSFER RECORDED IN SPECIAL
ORDER VOLUME 77 PAGES 947 - 949

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

RIVER STEPPES PRINEVILLE, LLC
471 HIGH ST. SE, SUITE #10
SALEM, OR 97301

Agent

CROOK COUNTY PARKS AND RECREATION
398 NE FAIRVIEW ST.
PRINEVILLE, OR 97754

Findings of Fact

Background

1. On June 11, 2008, TUCKER MAYBERRY filed an application to change the place of use under Certificate 80795. The Department assigned the application number T-10653.
2. On March 7, 2008, Certificate 80795 was superseded by Certificate 83850.
3. On April 8, 2009, the Department recorded an assignment of Transfer Application T-10653 to River Steppes Prineville, LLC, an Oregon Limited Liability Company.
4. The portion of the right to be transferred is as follows:
 - Certificate:** 83850 in the name of U. S. BUREAU OF RECLAMATION (perfected under Permit S-25991)
 - Use:** IRRIGATION of 2.0 ACRES
 - Priority Date:** APRIL 8, 1914
 - Rate:** 0.05 CUBIC FOOT PER SECOND (cfs)
 - 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

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.

of ONE-FORTIETH, of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: CROOKED RIVER, tributary to the DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	16 E	WM	8	NW SW	Direct Diversion #13 - 1920 FEET NORTH AND 340 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	16 E	WM	8	NW NW	0.1
15 S	16 E	WM	8	SW NW	1.9

- Transfer Application T-10653 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	16 E	WM	8	NW NW	0.1
15 S	16 E	WM	8	SW NW	1.9

- Notice of the application for transfer was published on June 24, 2008, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
- On June 1, 2009, the Department mailed a copy of the *draft* Preliminary Determination proposing to approve Transfer Application T-10653 to the applicant. The cover letter that accompanied the *draft* Preliminary Determination set forth a deadline of July 2, 2009, 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.
- On July 21, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10653 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 28, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
- Temporary Transfer T-10842 affects the same place of use as the proposal contained in Transfer Application T-10653. At the applicants request, Temporary Transfer Application T10842 (recorded in Special Order Volume 77, Pages 947 – 949) will be terminated upon issuance of the final order for Transfer Application T-10653.

Transfer Review Criteria

10. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the file that would demonstrate that the right is subject to forfeiture under ORS 540.610.
11. A pump sufficient to use the full amount of water allowed under the existing right is present.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.

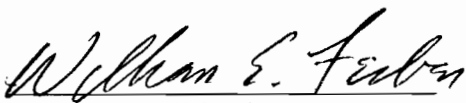
Conclusions of Law

The change in place of use proposed in Transfer Application T-10653 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. Temporary Transfer, recorded in Special Order Volume 77, Pages 947-949, is terminated and is of no further force or effect.
2. The change in place of use as proposed in Transfer Application T-10653 is approved.
3. 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 83850 and any related decree.
4. Water right certificate 83850 is modified. The Department will issue a superseding certificate describing the right when it determines that is necessary for record keeping.
5. The former place of use of the transferred right shall no longer receive water under the right.
6. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. 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(s) and full beneficial use of the water.

Dated at Salem, Oregon this 31st day of March, 2010.


for Phillip C. Ward, Director

Mailing Date: APR 02 2010