

**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)
UNDER THE TERMS OF AN ORDER APPROVING)
T-7569, WASHINGTON COUNTY)

FINAL ORDER

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

TUEFEL PARTNERS, INC.
12345 NW BARNES ROAD
PORTLAND, OR 97229

Current Landowner

TUALATIN HILLS PARK & RECREATION DISTRICT
15707 SW WALKER RD
BEAVERTON, OR 97006

Findings of Fact

1. On May 28, 1996, TUEFEL PARTNERS, INC. filed an application to change the character of use under Certificate 26624, and to change the character of use and place of use under Certificate 26625. The Department assigned the application number T-7569.
2. On November 9, 2004, Transfer Application T-7569 was approved and the order is recorded in Special Order Volume 62, Page 158. Certificates 26624 and 26625 were cancelled and the rights are considered inchoate.
3. The final order set a date of OCTOBER 1, 2006, for the changes to be completed. The claim of beneficial use was due OCTOBER 1, 2007.

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 November 23, 2020, 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 December 24, 2020. The certified mailing was returned to sender as undeliverable.
5. On December 29, 2020, the Department contacted the current landowner 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 1, 2021.
6. On January 5, 2021, the Department was contacted by the Planning Department of the Tualatin Hills Park and Recreation District (THPRD). THPRD inquired as to the tax lot or physical address of the property involved in T-7569. The Department sent an electronic copy of a map identifying the location of the transferred water rights.
7. On January 21, 2021, THPRD informed the Department that they would like both rights to revert back to the original character of use and place of use.
8. On January 25, 2021, the Department contacted THPRD by phone to discuss the rights transferred, and that they would be lost, rather than reverted, if not completed. Pursuant to OAR 690-380-6010(2); 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. The Department extended the deadline to receive a response on how THPRD would like to proceed, to March 1, 2021.
9. On February 17, 2021, THPRD notified the Department, "THPRD will not be moving to complete transfer T-7569," and that it is their "understanding that this decision means they will lose both water rights certificates on the tax lots involved in the transfer."
10. As of April 30, 2021, no Claim of Beneficial Use showing beneficial use of the inchoate water has been filed with the Department.
11. A description of the inchoate rights that are lost are as follows:

Certificate: 26624 in the name of ALFRED TEUFEL (perfected under Permit R-1461)
 Use: STORAGE for IRRIGATION
 Priority Date: OCTOBER 17, 1952
 Volume: 1.5 ACRE-FEET
 Source: WINTER RUN-OFF AND A SPRING, tributary to JOHNSON CREEK

Authorized Place of Use:

STORAGE for IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	DLC
1 N	1 W	WM	34	SE SW	53

Certificate: 26625 in the name of ALFRED TEUFEL (perfected under Permit S-21938)

Use: IRRIGATION of 1.8 ACRES OF NURSERY STOCK

Priority Date: AUGUST 26, 1952

Rate: 0.01 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated from direct flow and shall be further 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 from direct flow and storage from reservoir constructed under Permit No. R-1461.

Source: WINTER RUN-OFF, SPRING, and RESERVOIR CONSTRUCTED UNDER APPL. NO. R-27545, PER. NO. R-1461

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC
1 N	1 W	WM	34	SE SW	53

Authorized Place of Use:

IRRIGATION OF NURSERY STOCK						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 N	1 W	WM	34	SE SW	53	1.8

Conclusions of Law

The loss of right described above is consistent with the requirements of OAR 690-380-6010(2).

Now, therefore, it is ORDERED:

1. The inchoate rights under Transfer Application T-7569 are lost, and are of no further force or effect.

Dated in Salem, Oregon on JUL 20 2021


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

Mailing date: JUL 21 2021