

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

In the Matter of Transfer Application) FINAL ORDER APPROVING CHANGES IN
T-13890, Crook County) PLACES 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

SHOTGUN CREEK RANCH, LLC
ATTN: JOE PAPINEAU
40791 SE SHOTGUN RD.
POST, OR 97752

Findings of Fact

1. On January 7, 2022, SHOTGUN CREEK RANCH, LLC, ATTN: JOE PAPINEAU filed an application to change the places of use under Certificates 94456, 95554, and 95555. The Department assigned the application number T-13890.
2. Notice of the application for transfer was published on January 25, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 29, 2022, the Department contacted the agent for the applicant, requesting the listed lands for the Land Use Information Form. The agent for the applicant replied with the list on the same day.
4. On April 18, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13890 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 18, 2022, 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.

5. On May 9, 2022, the agent for the applicant requested an additional year for completion of the transfer, citing the need for an extra irrigation season to implement the changes.
6. On May 17, 2022, 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.
7. On June 15, 2022, the Department issued a Preliminary Determination proposing to approve Transfer Application T-13890 and sent a copy to the applicant(s). Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on June 21, 2022 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
8. The portion of the first right to be transferred is as follows:

Certificate: 94456 in the name of SHOTGUN CREEK RANCH, LLC (confirmed by Crooked River Decree, Volume 1, Page 449)

Use: IRRIGATION of 4.8 ACRES

Priority Date: 1889

Rate: 0.06 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually beneficially used from February 1st to December 1st of each year, and shall not exceed 0.06 cubic foot per second or its equivalent in case of rotation, measured at the point of diversion on Shotgun Creek.

Source: SHOTGUN CREEK, tributary of CROOKED RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	20 E	WM	9	SW SW	SHOTGUN CREEK #1 NEW – 2040 FEET SOUTH AND 920 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	20 E	WM	8	NW NW	4.8

9. The agent has provided measured distances to better describe the authorized points of diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	20 E	WM	9	SW SW	SHOTGUN CREEK #1 NEW – 2150 FEET SOUTH AND 1030 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

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 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
17 S	20 E	WM	4	NE SW	POD 3 NEW - 140 FEET SOUTH AND 2270 FEET EAST FROM THE W1/4 CORNER OF SECTION 4

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	20 E	WM	7	NE NE	4.3
17 S	20 E	WM	8	NW NW	5.7
TOTAL					10.0

14. Transfer Application T-13890 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	20 E	WM	7	NE NE	4.2
17 S	20 E	WM	7	SE NE	0.1
17 S	20 E	WM	8	NW NW	5.7
TOTAL					10.0

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

15. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
16. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-13890.
17. The proposed changes would not result in enlargement of the rights.
18. The proposed changes would not result in injury to other water rights.
19. All other application requirements are met.

10. Transfer Application T-13890 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	20 E	WM	8	NW NW	4.8

11. The second right to be transferred is as follows:

Certificate: 95554 in the name of CROOKED RIVER EAST LLC (confirmed by Crooked River Decree, Volume 1, Page 449)
Use: IRRIGATION of 10.0 ACRES
Priority Date: 1889
Rate: 0.115 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually beneficially used from February 1st to December 1st of each year, and shall not exceed 0.115 cubic foot per second or its equivalent in case of rotation, measured at the point of diversion on Shotgun Creek.
Source: SHOTGUN CREEK, a tributary of CROOKED RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	20 E	WM	9	SE NW	SHOTGUN CREEK – POD 5 (ORIGINAL) - 1940 FEET SOUTH AND 100 FEET WEST FROM THE N1/4 CORNER OF SECTION 9
17 S	20 E	WM	9	SW SW	POD 6 (ADDITIONAL) - 2150 FEET SOUTH AND 1030 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	20 E	WM	7	NE NE	4.3
17 S	20 E	WM	8	NW NW	5.7
TOTAL					10.0

12. Transfer Application T-13890 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	20 E	WM	7	NE NE	4.2
17 S	20 E	WM	7	SE NE	0.1
17 S	20 E	WM	8	NW NW	5.7
TOTAL					10.0

13. The portion of the third right to be transferred is as follows:

Certificate: 95555 in the name of CROOKED RIVER EAST LLC (perfected under Permit S-27410)
Use: SUPPLEMENTAL IRRIGATION of 10.0 ACRES
Priority Date: MAY 23, 1961
Rate: 0.13 CUBIC FOOT PER SECOND

Conclusions of Law

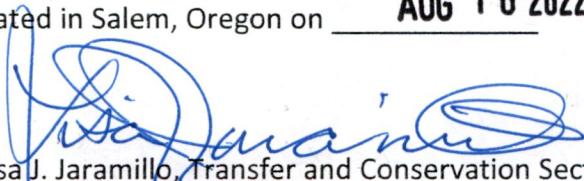
The changes in places of use proposed in Transfer Application T-13890 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in places of use proposed in Transfer Application T-13890 are 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 Certificates 94456, 95554, and 95555, and any related decree.
3. Water right Certificates 94456 and 95555 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.
4. Water right Certificate 95554 is cancelled.
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 point of diversion (new and 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.
6. The former places of use of the transferred rights shall no longer receive water under the rights.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2024**. 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 changes and full beneficial use of the water.

8. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on AUG 10 2022



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

Mailing date: AUG 11 2022