

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

In the Matter of Transfer Application                    )     FINAL ORDER APPROVING CHANGE  
T-9937, Jackson County                                    )     IN CHARACTER OF USE

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**

ROBERT LUND  
734 W DUTTON RD  
EAGLE POINT OR 97524-6590

**Agent**

NEWTON CONSULTANTS INC.  
2731 SW AIRPORT WAY, SUITE 100  
REDMOND, OR 97756

**Findings of Fact**

1. On May 18 2005, Robert Lund filed a transfer application to change the character of use under Certificates 6661 and 43579. The Department assigned the application number T-9937.
2. The portion of the first right to be transferred is as follows:

**Certificate:** 6661 in the name of M.L. PRUITT (perfected under Permit S-4671)

**Use:** IRRIGATION of 6.18 ACRES

**Priority Date:** JUNE 28, 1920

**Rate:** 0.08 CUBIC FEET PER SECOND

**Limit/Duty:** ONE-EIGHTIETH cfs per acre

**Source:** LITTLE BUTTE CREEK, tributary to ROGUE RIVER

**Authorized Point of Diversion:**

| Twp  | Rng | Mer | Sec | Q-Q   | Survey Coordinates |
|------|-----|-----|-----|-------|--------------------|
| 36 S | 1 W | WM  | 8   | NW NE | UNSPECIFIED        |

**Authorized Place of Use:**

| Twp  | Rng | Mer | Sec | Q-Q   | Acres |
|------|-----|-----|-----|-------|-------|
| 36 S | 1 W | WM  | 8   | NW NE | 2.66  |
| 36 S | 1 W | WM  | 8   | SW NE | 2.60  |
| 36 S | 1 W | WM  | 8   | SE NW | 0.92  |

This is a final order in other than 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 either 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.

3. Application T-9937 proposes to change the character of use to POND MAINTENANCE.
4. The total annual volume of water available for transfer under Certificate 6661 for the specified acreage is 28.96 acre-feet.
5. The portion of the second right to be transferred is as follows:

**Certificate:** 43579 in the name of I.R. & LUELLA D. KLINE (perfected under Permit S-14183)

**Use:** IRRIGATION of 4.88 ACRES

**Priority Date:** JANUARY 31, 1940

**Rate:** 0.06 CUBIC FEET PER SECOND

**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 4.5 acre-feet per acre per year

**Source:** LITTLE BUTTE CREEK, tributary to ROGUE RIVER

**Authorized Point of Diversion:**

| Twp  | Rng | Mer | Sec | Q-Q   | Survey Coordinates |
|------|-----|-----|-----|-------|--------------------|
| 36 S | 1 W | WM  | 8   | NE NW | UNSPECIFIED        |

**Authorized Place of Use:**

| Twp  | Rng | Mer | Sec | Q-Q   | Acres |
|------|-----|-----|-----|-------|-------|
| 36 S | 1 W | WM  | 8   | SE NW | 4.71  |
| 36 S | 1 W | WM  | 8   | NE SW | 0.17  |

6. Application T-9937 proposes to change the character of use to POND MAINTENANCE.
7. The total annual volume of water available for transfer under Certificate 43579 for the specified acreage is 21.96 acre-feet.
8. The season of use for POND MAINTENANCE under both rights will be April 1 to October 1.
9. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
10. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
12. The proposed change would not result in enlargement of the rights.
13. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

The proposed changes in character of use in application T-9937 are 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 character of use proposed in application T-9937 is approved.
2. Water right certificates 6661 and 43579 are cancelled. New certificates 81682 and 81683 will be issued describing the portions of the rights not involved in this transfer.
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 Certificates 6661 and 43579, and any related decree.
4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2007**. 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 changes and full beneficial use of the water.
5. Prior to diverting water, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
6. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 19<sup>th</sup> day of December 2005.

*Phillip C. Ward*  
For Phillip C. Ward, Director

Mailing date: 12-20-2005