

5. On December 15, 2015, the applicants provided written proof of service of mailing of the Notice of the proposed transfer to each of the water right holders of the affected right.
6. The right to be transferred is as follows:
Certificate: 17181 in the name of W. E. GIBSON (confirmed by Little Butte Creek (F) Decree)
Use: IRRIGATION of 10.9 ACRES
Priority Date: 1874
Rate: 0.28 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes and shall not exceed 0.28 cubic foot per second; measured at the head of the ditch or the point where the same leaves the natural stream.
Period of Use: April 1 to October 1
Source: LAKE CREEK, tributary of LITTLE BUTTE CREEK

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	1 E	WM	4	NE SW	10.9

7. Certificate 17181 does not describe the location of the point of diversion, however information is available from the applicants and the Watermaster indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
36 S	1 E	WM	11	SE SW	870 FEET NORTH AND 1400 FEET EAST FROM THE SW CORNER OF SECTION 11

8. Transfer Application T-11998 proposes to move the authorized point of diversion approximately 2.5 - 2.6 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
36 S	1 E	WM	4	NE SW	POD 1 - 586 FEET SOUTH AND 273 FEET WEST FROM THE CENTER OF SECTION 4
36 S	1 E	WM	4	NE SW	POD 2 - 565 FEET SOUTH AND 655 FEET WEST FROM THE CENTER OF SECTION 4
36 S	1 E	WM	4	NE SW	POD 3 - 650 FEET SOUTH AND 860 FEET WEST FROM THE CENTER OF SECTION 4

9. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

Transfer Review Criteria (ORS 540.532 and OAR 690-380-2120)

10. Pursuant to OAR 690-380-2120(2)(a), evidence has been submitted that the actual, current points of diversion for the water right in question, as described in Finding No. 6, have been in use for more than 10 years.
11. Pursuant to OAR 690-380-2120(2)(c), the Watermaster provided a statement that to his knowledge there has been no complaint of injury due to the use of water at the actual, current points of diversion, prior to the transfer request.
12. Pursuant to OAR 690-380-2120(3), the Department provided the applicant a list of the affected water rights and a copy of the notice to be provided to each affected water right holder. The applicant has provided written proof of service of notice of the proposed transfer on all affected water right holders.
13. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
14. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
15. The proposed change, as conditioned, would not result in enlargement of the right.
16. The proposed change, as conditioned, would not result in injury to other water rights.

Conclusions of Law

The proposed change in points of diversion to reflect historical use in application T-11998 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 points of diversion proposed in T-11998 is approved and effective immediately.
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 17181 and any related decree.
3. Water right Certificate 17181 is cancelled. Certificate 91077 will be issued to describe the change in points of diversion for the right included in T-11998. The new Certificate shall supersede Certificate 17181.
4. The quantity of water diverted at the new points of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.

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 new point of diversion.
 - 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. Prior to diverting water, the water user shall install an approved fish screen at the new points of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screens meet the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

Dated at Salem, Oregon this 21 day of January, 2016.



Dwight French, Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: JAN 27 2016