

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

In the Matter of Transfer Application) **FINAL ORDER APPROVING A**
T-11964, Jefferson County) **CHANGE IN PLACE OF USE**

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicants

DAVID A. AND MARY M. RICHENSTEIN
PO BOX 69596
PORTLAND, OR 97239

Findings of Fact

1. On January 13, 2015, DAVID A. AND MARY M. RICHENSTEIN filed an application to change the place of use under Certificate 88448. The Department assigned the application number T-11964.
2. Notice of the application for transfer was published on January 20, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 18, 2015, the Department contacted the applicants by telephone to notify them of deficiencies in the application. The application needed to be amended to include all uses and the tax lot numbers referenced in the application and on the map needed to be corrected.
4. On February 24, and March 2, 2015, the applicant submitted amended application pages and an amended transfer map resolving the deficiencies.
5. On March 4, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11964 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 6, 2015, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.

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.

6. On March 30, 2015, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11964 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on April 7, 2015, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 88448 in the name of DAVID A. AND MARY M. RICHENSTEIN
(confirmed by Deschutes River Decree (F))
Use: IRRIGATION OF 1.4 ACRES, DOMESTIC AND STOCK
Priority Date: 1888
Rate: 0.02 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, is limited to a diversion of ONE-SIXTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Period of Use: MAY 1 TO SEPTEMBER 15
Source: NORTH FORK LAKE CREEK, tributary to METOLIUS RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	9 E	WM	15	NW NW	440 FEET SOUTH AND 350 FEET EAST FROM THE NW CORNER OF SECTION 15

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	9 E	WM	15	NW NW	1.40

8. Transfer Application T-11964 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	9 E	WM	15	NW NW	1.40

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

9. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-11964.
11. The proposed change would not result in enlargement of the right.
12. 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-11964 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 place of use proposed in Transfer Application T-11964 is 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 Certificate 88448 and any related decree.
3. Water right Certificate 88448 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The former place of use of the transferred right shall no longer receive water under the right.
5. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2016**. 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 change and full beneficial use of the water.
6. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 8 day of May, 2015.



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

Mailing Date: MAY 11 2015