

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10936, Wasco County) CHANGE IN PLACE OF USE

Authority

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

MELVIN S. and BARBRA J. AMBROSE
PO BOX 226
MAUPIN, OR 97037

Receiving Landowner

DONNA ROSS
PO BOX 189
MAUPIN, OR 97037

Findings of Fact

Background

1. On July 31, 2009, Melvin and Barbara Ambrose filed an application to change the place of use under portions of Certificates 77326, 77733 and 77734. The Department assigned the application number T-10936.
2. The portion of the primary water right and its layered supplemental water rights to be transferred are as follows:

Certificate: 77326 in the name of JUNIPER FLAT DISTRICT IMPROVEMENT CO.
(confirmed by White River Decree of the Circuit Court of the State of Oregon for Wasco County)

Use: IRRIGATION OF 15.5 ACRES, STOCK, and MAINTENANCE OF STOCK PONDS

Priority Date: July 1, 1903 for DIRECT FLOW FROM CLEAR CREEK and FROG CREEK, and AUGUST 19, 1904, from STORAGE IN CLEAR LAKE RESERVOIR

Limit/Duty: ONE ACRE FEET per acre or acre equivalent during any 30-day period up TO JULY 1st of each year AND NOT TO EXCEED 3.0 ACRE FEET PER ACRE OR ACRE EQUIVALENT during any irrigation season; PROVIDED, that the rate of flow shall not exceed 1/40th of a cfs per acre or acre equivalent UP TO JULY 1st of each

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.

year and thereafter not to exceed 1/80th of a cfs per acre or acre equivalent, except in case of rotation

Source: DIRECT FLOW FROM CLEAR CREEK and FROG CREEK and STORAGE IN CLEAR LAKE RESERVOIR, a tributary of WHITE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Source
4 S	9 E	WM	34	NE NE	FROG CREEK
5 S	9 E	WM	10	NW SE	CLEAR CREEK
4 S	9 E	WM	32	SE SE	CLEAR LAKE RESERVOIR DAM

Certificate: 77733 in the name of JUNIPER FLAT DISTRICT IMPROVEMENT CO. (perfected under Permit S-25275)

Use: SUPPLEMENTAL IRRIGATION of 15.5 ACRES

Priority Date: NOVEMBER 11, 1915

Limit/Duty: a diversion of 4.2 ACRE-FEET for each acre irrigated or ACRE EQUIVALENT during the irrigation season of each year

Source: CLEAR LAKE RESERVOIR (constructed under Permit R-2106), a tributary of WHITE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 S	9 E	WM	32	SE SE	1390 FEET SOUTH and 480 FEET WEST FROM THE E1/4 CORNER OF SECTION 32

Certificate: 77734 in the name of JUNIPER FLAT DISTRICT IMPROVEMENT CO. (perfected under Permit S-19963)

Use: STOCK

Priority Date: SEPTEMBER 6, 1950 FOR 0.5 cfs and DECEMBER 2, 1950 for 0.5 cfs

Source: TWO UNNAMED SPRINGS and UNNAMED STREAMS FORMED THEREBY, a tributary of CLEAR CREEK

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Source	Measured Distances
5 S	9 E	WM	13	NE NE SE	UNNAMED SPRING (1)	- not specified
5 S	9 E	WM	13	NW SE NW	UNNAMED SPRING (2)	- not specified

3. The authorized places of use for the above described Certificates 77326 (primary irrigation), 77733 (supplemental irrigation) and 77734 (stock) are as follows:

PRIMARY IRRIGATION, SUPPLEMENTAL IRRIGATION and STOCK					
Twp	Rng	Mer	Sec	Q - Q	Acres
5 S	13 E	WM	20	NE NE	3.6
5 S	13 E	WM	20	NW NE	7.8
5 S	13 E	WM	20	SW NE	4.0
5 S	13 E	WM	21	NW NW	0.1
TOTAL:					15.5

- Transfer Application T-10936 proposes to change the place of use of the three water rights appurtenant to the lands in the above described table to:

Proposed Places of Use:

PRIMARY IRRIGATION, SUPPLEMENTAL IRRIGATION and STOCK					
Twp	Rng	Mer	Sec	Q - Q	Acres
5 S	12 E	WM	12	SW SE	6.15
5 S	12 E	WM	12	SE SE	0.30
5 S	12 E	WM	13	NE NE	1.50
5 S	12 E	WM	13	NW NE	5.20
5 S	13 E	WM	20	NW NE	2.35
TOTAL:					15.50

- The lands proposed for transfer are located within the Juniper Flat District Improvement Company. Timothy Morelli, Chairman of the Board of Directors for the company, submitted a letter accompanying the application supporting the transfer.
- Notice of the application for transfer was published on August 25, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On October 26, 2010, the Department mailed a copy of the *draft* Preliminary Determination proposing to approve Transfer Application T-10936 to the applicant(s). The cover letter that accompanied the *draft* Preliminary Determination set forth a deadline of November 25, 2010, for the applicant(s) to respond. The applicant(s) 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.
- On January 24, 2011, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10936 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on February 1, 2011. No protests were filed in response to the notice.

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

- Water has been used within the five-year period prior to submittal of the transfer application 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.
- Diversion structures, ditch and district deliver system sufficient to use the full amounts of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-10936.
- The proposed change would not result in enlargement of the rights.
- The proposed changes would not result in injury to other water rights.

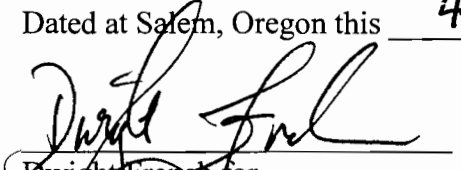
Conclusions of Law

The change in place of use proposed in Transfer Application T-10936 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in application T-10936 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 Certificates 77326, 77733 and 77734 and any related decree.
3. Water right certificates 77326, 77733 and 77734 are modified. The Department will issue superseding certificates describing the rights when it is determined that it is necessary for record keeping.
4. The Director may require the water user to install a totalizing flow meter or other suitable measuring device at each point of diversion. If the Director notifies the water user to install totalizing flow meters or other suitable measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices.
5. The former places of use of the transferred rights shall no longer receive water under the rights.
6. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**.
7. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant and the receiving landowner to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.

Dated at Salem, Oregon this 4 day of March, 2011.


Dwight French for
PHILLIP C. WARD, DIRECTOR
MAR 07 2011
Mailing date: _____