

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

In the Matter of Transfer Application            )  
T-11322, Lake County                            )  
  )  
  )    FINAL ORDER APPROVING  
  )    CHANGES IN POINTS OF  
  )    APPROPRIATION AND  
  )    PLACE OF USE

**Authority**

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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**

THE POPLARS RANCH INC.  
59234 FORT ROCK RD  
SILVER LAKE, OR 97638

**Agent**

DENNIS R. GLENDER  
DBA GLENDER'S HYDRO TECH SVC.  
8664 SW SAND RIDGE RD.  
CROOKED RIVER RANCH, OR 97760

**Findings of Fact**

**Background**

1. On December 2, 2011, The Poplars Ranch Inc., c/o Alan Parks, President, filed an application to change points of appropriation and place of use under Certificates 56502, 55099, 76038, 81489 and 55100. The Department assigned the application number T-11322.
2. On July 3, 2012, modifications to the application and revised maps were submitted.
3. The portion of the first right to be transferred is as follows:

**Certificate:** 56502 in the name of THE POPLARS RANCH INC. (perfected under Application U-773)

**Use:** IRRIGATION of 64.2 ACRES

**Priority Date:** DECEMBER 29, 1954

**Rate:** 0.80 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

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.

ONE-EIGHTIETH 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.

**Source:** POPLARS WELL 4 within the SILVER LAKE [FORT ROCK] BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	33	SW NE	3950 FEET NORTH AND 1330 FEET WEST FROM THE SE CORNER OF SECTION 33

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE NE	12.3
26 S	15 E	WM	33	NW NE	21.5
26 S	15 E	WM	33	SW NE	18.9
26 S	15 E	WM	33	SE NE	11.5

4. Transfer Application T-11322 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE NE	29.7
26 S	15 E	WM	33	NW NE	3.7
26 S	15 E	WM	33	SE NE	30.8

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

**Certificate:** 55099 in the name of THE POPLARS RANCH INC. (perfected under Permit G-8650)

**Use:** IRRIGATION of 1.6 ACRES

**Priority Date:** AUGUST 21, 1979

**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-EIGHTIETH 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.

**Source:** A WELL within the FORT ROCK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	28	SW SE	1320 FEET NORTH AND 1300 FEET EAST FROM THE S1/4 CORNER OF SECTION 28

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	28	SW SE	0.8
26 S	15 E	WM	28	SE SE	0.8

6. Transfer Application T-11322 proposes to move the authorized point of appropriation to Well #3 (LAKE 51764), approximately 0.7 mile from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	33	NW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 33

7. Transfer Application T-11322 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE NW	1.6

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

**Certificate:** 76038 in the name of Z X RANCH (perfected under Permit G-6670)

**Use:** IRRIGATION of 3.0 ACRES

**Priority Date:** SEPTEMBER 23, 1974

**Rate:** 0.04 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-EIGHTIETH 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.

**Source:** WELL #7 within the SILVER LAKE BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	28	SW SW	3957 FEET SOUTH AND 1283 FEET EAST FROM THE NW CORNER OF SECTION 28

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	28	NE SW	0.25
26 S	15 E	WM	28	NW SW	1.25
26 S	15 E	WM	28	SW SW	1.25
26 S	15 E	WM	28	SE SW	0.25

9. Transfer Application T-11322 proposes to move the authorized point of appropriation to Well #3 (LAKE 51764), approximately 0.5 mile from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	33	NW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 33

10. Transfer Application T-11322 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE NW	3.0

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

**Certificate:** 81489 in the name of THE POPLARS RANCH INC. (perfected under Permit G-9146)

**Use:** IRRIGATION of 86.3 ACRES

**Priority Date:** JANUARY 9, 1981

**Rate:** 1.08 CUBIC FEET PER SECOND, being 0.95 cfs from the well in Section 34 and 0.13 cfs from the well in Section 33, if available at the original point of appropriation located in the NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 34, T26S, R15E, W.M., 1450 feet north and 1350 feet west from the SE Corner of Section 34.

**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-EIGHTIETH 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.

**Source:** TWO WELLS within the FORT ROCK BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	33	NW SW	1330 FEET NORTH AND 1330 FEET WEST FROM THE S $\frac{1}{4}$ CORNER OF SECTION 33
26 S	15 E	WM	34	NW SE	1450 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER OF SECTION 34

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE SW	2.3
26 S	15 E	WM	33	NW SW	3.8
26 S	15 E	WM	33	SW SW	2.4
26 S	15 E	WM	33	SE SW	1.8
26 S	15 E	WM	34	SW SE	37.0
26 S	15 E	WM	34	SE SE	39.0

12. Transfer Application T-11322 proposes to move the authorized points of appropriation to Well #3 (LAKE 51764), approximately 0.5 mile from the well in Section 33 and 1.6 miles from the well in Section 34:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	33	NW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 33

13. Transfer Application T-11322 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE NW	16.6
26 S	15 E	WM	33	NW NW	8.5
26 S	15 E	WM	33	SW NW	29.9
26 S	15 E	WM	33	SE NW	31.3

14. The fifth right to be transferred is as follows:

**Certificate:** 55100 in the name of THE POPLARS RANCH INC. (perfected under Permit G-9069)

**Use:** IRRIGATION of 61.7 ACRES

**Priority Date:** JULY 15, 1980

**Rate:** 0.77 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-EIGHTIETH 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 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** A WELL within the FORT ROCK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	33	SW NE	3950 FEET NORTH AND 1330 FEET WEST FROM THE SE CORNER OF SECTION 33

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE NE	18.3
26 S	15 E	WM	33	NW NE	9.0
26 S	15 E	WM	33	SW NE	13.5
26 S	15 E	WM	33	SE NE	20.9

15. Transfer Application T-11322 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NW NE	28.6
26 S	15 E	WM	33	SW NE	33.1

16. Notice of the application for transfer was published on December 13, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
17. On May 31, 2012, the Department notified the applicant and agent via e-mail of items that needed clarification. On June 2 and July 3, 2012, the applicant's agent responded by submitting answers and revised pages and maps.
18. On July 25, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11322 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 27, 2012, for the applicant to respond. The applicant's agent 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.
19. On September 12, 2012, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11322 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on September 18, 2012, and in the Lake County Examiner newspaper on September 19 and 26 and October 3, 2012, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

***Transfer Review Criteria (OAR 690-380-4010)***

20. Water has been used within the last five years prior to the submittal of Transfer Application T-11322 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.
21. Pumps, pipelines, and sprinkler systems 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-11322.
22. The proposed changes would not result in enlargement of the rights.
23. The proposed change would not result in injury to other water rights.
24. The proposed well accesses water from the same groundwater source as the authorized wells: the main groundwater reservoir in the Fort Rock Basin as described by Miller (1984).

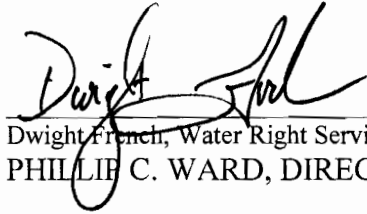
## Conclusions of Law

The changes in points of appropriation and place of use proposed in Transfer Application T-11322 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

### Now, therefore, it is ORDERED:

1. The changes in points of appropriation and place of use proposed in application T-11322 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 56502, 56502, 55099, 76038, 81489 and 55100 and any related decree.
3. Water right certificates 56502, 56502, 55099, 76038, 81489 and 55100 are cancelled. New certificates will be issued describing those portions of the rights evidenced by Certificates 56502, 55099, 76038 and 81489 not affected by this transfer.
4. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.
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 the new point of appropriation.
  - b. The water user shall maintain the meter or measuring device in good working order.
6. c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
7. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
8. The former place of use of the transferred right shall no longer receive water under the right.
9. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2014**. 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.
10. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 6 day of November, 2012.



Dwight French, Water Right Services Administrator, for  
PHILLIP C. WARD, DIRECTOR

Mailing Date NOV 09 2012