

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11228, Klamath 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.

Applicants

KATHERINE L. SAGUNSKY
BRYAN STUART
735 HANKS STREET
KLAMATH FALLS, OR 97601

Findings of Fact

Background

1. On April 11, 2011, KATHERINE L. SAGUNSKY AND BRYAN STUART filed an application to change the place of use under Certificate 48727. The Department assigned the application number T-11228.
2. Concurrent with submission of the transfer application, applicants submitted an Affidavit Consenting to Proposed Water Right Transfer, signed by Jack Darley, current owner of the land to which the water right is appurtenant (tax lot 10113).
3. The right to be transferred is as follows:

Certificate: 48727 in the name of C.H. DARLEY (perfected under Permit S-42889)
Use: DOMESTIC USE for ONE FAMILY
Priority Date: JANUARY 16, 1978
Rate: 0.005 CUBIC FOOT PER SECOND
Source: LAKE OF THE WOODS, a tributary of SELDOM CREEK

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.

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
37 S	5 E	WM	14	SW NW	2	1900 FEET SOUTH AND 235 FEET EAST FROM THE NW CORNER OF SECTION 14

Authorized Place of Use:

DOMESTIC						
Twp	Rng	Mer	Sec	Q-Q	GLot	Tax Lot
37 S	5 E	WM	14	SW NW	2	10113

4. Transfer Application T-11228 proposes to change the place of use of the right to:

DOMESTIC						
Twp	Rng	Mer	Sec	Q-Q	GLot	Tax Lot
37 S	5 E	WM	14	SW NW	2	10114

5. Notice of the application for transfer was published on April 19, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. On May 19, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11228 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of June 19, 2011, for the applicant 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.
7. On June 3, 2011, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11228 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 June 7, 2011, 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(2)]

8. 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.
9. A pump and pipeline sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-11228.
10. The proposed change would not result in enlargement of the right.
11. 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-11228 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-11228 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 48727 and any related decree.
3. Water right certificate 48727 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The Director may require the water user to install a totalizing flow meter or other suitable measuring devices at each point of diversion. If the Director notifies the water user to install totalizing flow meters or other 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 place of use of the transferred right shall no longer receive water under the right.
6. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicants to the Department within one year after the deadline for completion of the change and full beneficial use of the water.
7. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 11 day of July 2011.



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

JUL 12 2011

Mailing date: _____