

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11280, Malheur 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

JERROLD STRICKLAND
RAJER FARMS
6110 A HIGHWAY 201
HUNTINGTON, OR 97207-5003

Findings of Fact

Background

1. On August 11, 2011, Jerrold Strickland of Rajer Farms filed an application to change the place of use under Certificates 37339 and 51472. The Department assigned the application number T-11280.
2. The first right to be transferred is as follows:
 - Certificate:** 37339 in the name of THEODORE BOKIDES (perfected under Permit S-31319)
 - Use:** IRRIGATION of 327.9 ACRES
 - Priority Date:** FEBRUARY 7, 1966
 - Rate:** 6.9 CUBIC FEET 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-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to

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.

exceed 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: SNAKE RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
15 S	46 E	WM	21	NE NE	1	1100 FEET SOUTH AND 4580 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
15 S	46 E	WM	16	SW SW		36.5
15 S	46 E	WM	17	SW SE		1.7
15 S	46 E	WM	17	SE SE		21.7
15 S	46 E	WM	20	NE NE		15.6
15 S	46 E	WM	20	SE NE		14.4
15 S	46 E	WM	21	NE NE	1	6.8
15 S	46 E	WM	21	NW NE		38.0
15 S	46 E	WM	21	SW NE		34.0
15 S	46 E	WM	21	SE NE	2	7.4
15 S	46 E	WM	21	NE NW		39.2
15 S	46 E	WM	21	NW NW		34.3
15 S	46 E	WM	21	SW NW		36.0
15 S	46 E	WM	21	SE NW		34.8
15 S	46 E	WM	21	NE SW		0.1
15 S	46 E	WM	21	NW SW		7.4
Total Acres:						327.9

3. Application T-11280 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
15 S	46 E	WM	16	SW SW		13.7
15 S	46 E	WM	16	SW SE		8.8
15 S	46 E	WM	17	SE SE		14.0
15 S	46 E	WM	20	NE NE		35.9
15 S	46 E	WM	20	NW NE		8.0
15 S	46 E	WM	20	SW NE		1.0
15 S	46 E	WM	20	SE NE		19.4
15 S	46 E	WM	21	NE NE	1	1.7
15 S	46 E	WM	21	NW NE		38.2
15 S	46 E	WM	21	SW NE		34.8
15 S	46 E	WM	21	SE NE	2	1.7
15 S	46 E	WM	21	NE NW		31.4
15 S	46 E	WM	21	NW NW		39.0
15 S	46 E	WM	21	SW NW		36.1
15 S	46 E	WM	21	SE NW		33.2
15 S	46 E	WM	21	NE SW		0.6
15 S	46 E	WM	21	NW SW		10.4
Total Acres:						327.9

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

Certificate: 51472 in the name of OASIS ACRES, WAYNE DOUGLAS CHENEY PARTNER (perfected under Permit S-41976)

Use: IRRIGATION of 250.7 ACRES

Priority Date: JUNE 13, 1977

Rate: 4.74 CUBIC FEET 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-FORTIETH 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 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: SNAKE RIVER, tributary to the COLUMBIA RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
15 S	46 E	WM	16	NW SE	2	2000 FEET NORTH AND 3460 FEET EAST FROM THE SW CORNER OF SECTION 16

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
15 S	46 E	WM	16	SW NE	3	0.4
15 S	46 E	WM	16	SW NW		12.7
15 S	46 E	WM	16	SE NW		1.5
15 S	46 E	WM	16	NE SW		39.1
15 S	46 E	WM	16	NW SW		40.0
15 S	46 E	WM	16	SE SW		38.2
15 S	46 E	WM	16	NW SE	2	15.8
15 S	46 E	WM	16	SW SE	1	31.8
15 S	46 E	WM	17	SE NE		11.9
15 S	46 E	WM	17	NE SE		40.0
15 S	46 E	WM	17	NW SE		17.4
15 S	46 E	WM	17	SW SE		0.7
15 S	46 E	WM	17	SE SE		0.6
15 S	46 E	WM	21	NW NE		0.3
15 S	46 E	WM	21	NE NW		0.3
Total Acres:						250.7

5. Application T-11280 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
15 S	46 E	WM	16	SW NW	3	6.0
15 S	46 E	WM	16	NE SW		35.2
15 S	46 E	WM	16	NW SW		36.9
15 S	46 E	WM	16	SW SW		17.6
15 S	46 E	WM	16	SE SW		39.2
15 S	46 E	WM	16	NW SE	2	13.8

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
15 S	46 E	WM	16	SW SE	1	16.4
15 S	46 E	WM	17	SE NE		6.8
15 S	46 E	WM	17	NE SE		38.7
15 S	46 E	WM	17	NW SE		15.6
15 S	46 E	WM	17	SW SE		5.5
15 S	46 E	WM	17	SE SE		16.3
15 S	46 E	WM	21	NE NW		2.7
Total Acres:						250.7

6. The map submitted with T-11280 suggests there may have been a platting error when the Final Proof Survey maps for these rights were created, causing the east/west lines to overlie the lands about 175 feet south of their true location according to a survey performed by the Certified Water Right Examiner. Corrected coordinates for the points of diversion are given as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
15 S	46 E	WM	21	NW NE	1	CERTIFICATE 37339 POD: 1275 FEET SOUTH AND 4580 FEET EAST FROM THE NW CORNER OF SECTION 21
15 S	46 E	WM	17	NW SE	2	CERTIFICATE 51472 POD: 1825 FEET NORTH AND 3460 FEET EAST FROM THE SW CORNER OF SECTION 16

7. Notice of the application for transfer was published on August 16, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
8. On August 3, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11280 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 5, 2012, for the applicant to respond. The applicant 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.
9. On October 15, 2012, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11280 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 October 16, 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(2)]

10. Water has been used within the last five years 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.

11. A pump, pipeline, and sprinkler system 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-11280.
12. The proposed changes would not result in enlargement of the rights.
13. 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-11280 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 application T-11280 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 37339 and 51472 and any related decree.
3. Water right certificates 37339 and 51472 are cancelled. A new certificate will be issued describing that portion of the right (Certificate 51472) not affected by this transfer.
4. The former place of use of the transferred rights shall no longer receive water under the rights.
5. 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 change and full beneficial use of the water.
6. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 16 day of November, 2012.


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

Mailing date: NOV 20 2012