

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

In the Matter of Transfer Application            )     **FINAL ORDER**  
T-12014, Wasco County                            )     **APPROVING A 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**

DOG RIVER ORCHARDS, LLC  
P.O. BOX 445  
PARKDALE, OR 97041

**Agent**

TENNESON ENGINEERING CORP.  
ATTN: LARRY TOLL  
3775 CRATES WAY  
THE DALLES, OR 97058

**Findings of Fact**

1. On March 23, 2015, DOG RIVER ORCHARDS, LLC, BY GORHAM BLAINE, MANAGING MEMBER, filed an application to change the place of use under Certificate 89584. The Department assigned the application number T-12014.
2. Notice of the application for transfer was published on March 31, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 12, 2015, the Department mailed a copy of the Preliminary Determination proposing to approve Transfer Application T-12014 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 11, 2015 for the applicant to respond. On June 1, 2015, 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.
4. On June 18, 2015, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12014 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 June 23, 2015 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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.

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

**Certificate:** 89584 in the name of LOST AND BOULDER DITCH COMPANY  
(perfected under Permit S-47709)  
**Use:** IRRIGATION OF 27.0 ACRES  
**Priority Date:** MARCH 10, 1980 FOR 0.668 CUBIC FOOT PER SECOND (CFS) AND  
MAY 7, 1981 FOR 0.069 CFS  
**Rate:** 0.675 CFS  
**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 3.0 acre feet per acre during the irrigation season of each year.  
**Sources:** LOST CREEK, BOULDER CREEK AND FOREST CREEK, TRIBUTARIES TO THE WHITE RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	10 E	WM	26	SE SW	LOST CREEK - 1310 FEET NORTH AND 1730 FEET EAST FROM THE SW CORNER OF SECTION 26
4 S	10 E	WM	27	NE SE	BOULDER CREEK - 2010 FEET NORTH AND 180 FEET WEST FROM THE SE CORNER OF SECTION 27
4 S	10 E	WM	27	SW SW	FOREST CREEK - 195 FEET NORTH AND 256 FEET EAST FROM THE SW CORNER OF SECTION 27

**Authorized Places of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	GLot	Tax Lot	Q-Q	Acres
4 S	12 E	WM	34		5500	SE SE	4.1
5 S	12 E	WM	3	2	600	NW NE	16.0
5 S	12 E	WM	3	3	600	NE NW	6.9
Total							27.0

6. Transfer Application T-12014 proposes to change the place of use of the above described right to:

IRRIGATION							
Twp	Rng	Mer	Sec	GLot	Tax Lot	Q-Q	Acres
4 S	12 E	WM	33		5500	SE SE	12.5
4 S	12 E	WM	34		5500	NW SW	6.5
4 S	12 E	WM	34		5500	SW SW	1.0
5 S	12 E	WM	3	4	600	NW NW	7.0
Total							27.0

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

7. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the records that would demonstrate that the right is subject to forfeiture under ORS 540.610.

8. Diversion structures, ditches and a delivery system 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-12014.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

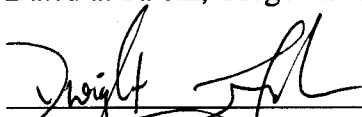
### Conclusions of Law

The change in place of use proposed in Transfer Application T-12014 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-12014 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 89584 and any related decree.
3. Water right certificate 89584 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 17 day of August, 2015.

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

Mailing date: AUG 19 2015