

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11173, Lake County) CHANGE PLACE OF USE, AND
) TERMINATING A TEMPORARY
) TRANSFER

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

70 RANCH, INC
22013 THOMAS CREEK ROAD
LAKEVIEW, OR 97630

Findings of Fact

Background

1. On December 21, 2010, 70 RANCH, INC. filed an application to change the place of use under Certificate 55094. The Department assigned the application number T-11173.
2. On May 27, 2008, Temporary Transfer Application T-10613 was approved (Special Order Volume 74, pages 992-994). That temporary transfer covered the point of appropriation and some of same place of use described in this application and is in effect for 5 years, ending in 2012, or until terminated by order of the Department.
3. Transfer Application T-11173 requested the Department terminate Temporary Transfer T-10613 upon approval of Transfer Application T-11173.
4. The portion of the right to be transferred is as follows:
Certificate: 55094 in the name of 70 RANCH, INC. (perfected under Permit G-7433)
Use: IRRIGATION of 24.7 ACRES
Priority Date: APRIL 15, 1977
Rate: 0.31 CUBIC FOOT PER SECOND

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.

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, 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 COX CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
38 S	20 E	WM	18	NW SW	3	2550 FEET NORTH AND 1150 FEET EAST FROM THE SW CORNER OF SECTION 18

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
38 S	20 E	WM	18	NE NW		6.7
38 S	20 E	WM	18	NW NW	1	4.9
38 S	20 E	WM	18	SW NW	2	3.2
38 S	20 E	WM	18	SE NW		4.4
38 S	20 E	WM	18	NE SW		1.0
38 S	20 E	WM	18	NW SW	3	4.5
Total						24.7

5. Transfer Application T-11173 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
38 S	19 E	WM	13	NE SE	0.3
38 S	19 E	WM	13	NW SE	24.4
Total					24.7

6. Notice of the application for transfer was published on December 28, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. Before Transfer Application T-11173 can be approved; Temporary Transfer T-10613 must expire or be terminated by order of the Department.
8. On February 3, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11173 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 4, 2011, for the applicants to respond. The applicants 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 February 11, 2011, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11173 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application as published on the Department's

weekly notice on February 15, 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)

10. 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.
11. A pump, pipeline, and sprinkler 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-11173.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.

Conclusions of Law

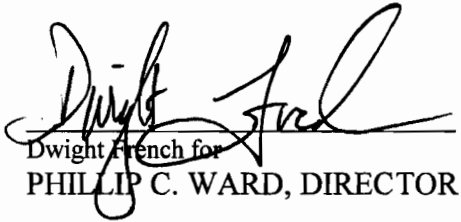
The change in place of use proposed in Transfer Application T-11173 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. Temporary Transfer T-10613 is terminated. The final order entered at Special Order Volume 74, pages 992-994 is of no further force or effect.
2. The change in place of use proposed in Transfer Application T-11173 is approved.
3. 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 55094 and any related decree.
4. Water right certificate 55094 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
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 each point of appropriation.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device are located within a private structure, the Watermaster shall request access upon reasonable notice.
6. The former place of use of the transferred right shall no longer receive water under the right.

7. 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 applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.
8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 17th day of March 2011.


Dwight French for
PHILLIP C. WARD, DIRECTOR

Mailing date: MAR 21 2011