

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-8544, Crook County) CHANGE IN PLACE OF USE

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

OREGON RANCHING COMPANY
14711 PAULINA HWY
POST OR 97752

Findings of Fact

1. On June 8 2000, Oregon Ranching Company filed a transfer application to change the place of use under Certificate 617. The Department assigned the application number T-8544.
2. On November 24 2001, an affidavit for partial cancellation of Certificate 617 was received from Rick Delamarter as follows:

Certificate: 617 in the name of MEYER & BROWN
Use: LIVESTOCK, DOMESTIC, and IRRIGATION of 13 ACRES
Priority Date: 1907
Rate: 0.16 CUBIC FEET PER SECOND
Limit/Duty: 1/80 cfs per acre, not to exceed 4 acre-feet per acre per year
Source: SOUTH FORK CROOKED RIVER, tributary to CROOKED RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	22 E	WM	23	SE NE	760 FEET NORTH AND 160 FEET WEST OF E1/4 CORNER, SECTION 23

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either 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 Place of Use to be Cancelled:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	22 E	WM	22	NE NE	13

- On July 5 2005, an affidavit was received from Rick Delamarter for cancellation of the Domestic Use under the portion of Certificate 617 being transferred.
- The portion of the right to be transferred is as follows:

Certificate: 617 in the name of MEYER & BROWN (confirmed by Crooked River decree)

Use: IRRIGATION AND LIVESTOCK of 67.5 ACRES

Priority Date: 1889 for 25 acres, 1899 for 29 acres, 1907 for 13.5 acres

Rate: 0.85 CUBIC FEET PER SECOND

Limit/Duty: 1/80 cfs per acre, not to exceed 4 acre-feet per acre per year

Source: SOUTH FORK CROOKED RIVER, tributary to CROOKED RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
17 S	22 E	WM	23	SE NE	760 FEET NORTH AND 160 FEET WEST OF E1/4 CORNER, SECTION 23

Authorized Place of Use:

IRRIGATION AND LIVESTOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	22 E	WM	22	NE NE	5.0
17 S	22 E	WM	22	NW NE	3.0
17 S	22 E	WM	22	SW NE	18.5
17 S	22 E	WM	22	SE NE	19.0
17 S	22 E	WM	22	NW NW	4.0
17 S	22 E	WM	22	SE NW	4.0
17 S	22 E	WM	22	NE SE	6.0
17 S	22 E	WM	22	NW SE	8.0

- Application T-8544 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority Date
17 S	22 E	WM	15	SE SW	9.4	1907
17 S	22 E	WM	22	NW NE	1.2	1899
17 S	22 E	WM	22	SW NE	2.3	1889
17 S	22 E	WM	22	SW NE	11.3	1899
17 S	22 E	WM	22	SE NE	14.5	1889
17 S	22 E	WM	22	NE NW	4.1	1907
17 S	22 E	WM	22	NE NW	6.2	1899
17 S	22 E	WM	22	SE NW	3.2	1899
17 S	22 E	WM	22	NE SE	7.4	1889
17 S	22 E	WM	22	NW SE	7.1	1899
17 S	22 E	WM	22	NW SE	0.8	1889

LIVESTOCK					
Twp	Rng	Mer	Sec	Q-Q	Priority Date
17 S	22 E	WM	15	SE SW	1907
17 S	22 E	WM	22	NW NE	1899
17 S	22 E	WM	22	SW NE	1889
17 S	22 E	WM	22	SE NE	1889
17 S	22 E	WM	22	NE NW	1899
17 S	22 E	WM	22	SE NW	1899
17 S	22 E	WM	22	NE SE	1889
17 S	22 E	WM	22	NW SE	1889

6. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
7. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
8. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would result in the routing of return flows around three diversions related to junior water rights (Certificates 2936, 5065, 21912), resulting in potential injury to those rights. However, the Watermaster finds that any return flows that may occur would flow into ditches of the potentially injured diversions upstream of the place of use. Thus, the proposed change would not result in injury to other water rights.
11. Certificate 617 is annotated to indicate that the irrigation season is restricted incorrectly on said certificate from July 1 to September 1, and should correspond to that described in the decree (February 1 to December 1), thus the decreed irrigation season is indicated on the remaining-right certificate.

Conclusions of Law


The proposed changes in place of use in application T-8544 appear to be consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000, and will be approved provided that protests are not filed pursuant to OAR 690-380-4030.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in T-8544 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 617 and any related decree.
3. The uses proposed for cancellation prior to transfer under Certificate 617 are cancelled.

4. The DOMESTIC use for the transferred portion of Certificate 617 is cancelled.
5. Certificate 617 is cancelled; Certificate 80616 shall be issued to describe the remaining rights NOT affected by T-8544.
6. The proposed change shall be completed on or before October 1, 2006.
7. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2007.
8. The former place of use of the transferred water shall no longer receive water as part of these rights.
9. Under no circumstances shall return flows be captured in the applicant's ditches.

Dated at Salem, Oregon this 29 day of August 2005.


For Phillip C. Ward, Director

Mailing date: SEP 06 2005