

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

In the Matter of Transfer Application            )     FINAL ORDER APPROVING A  
T-11730, Benton 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**

DAVID V. AND MARGARET S. BUCHANAN, TRUSTEES  
26355 GREENBERRY RD  
CORVALLIS, OR 97333

**Findings of Fact**

1. On January 21, 2014, DAVID V. AND MARGARET S. BUCHANAN filed an application to change the place of use under Certificate 33400. The Department assigned the application number T-11730.
2. Notice of the application for transfer was published on February 4, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 27, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11730 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 30, 2014, 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 applicants are authorized to pursue the transfer.
4. On May 1, 2014, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11730 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on May 13, 2014, 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 right to be transferred is as follows:

**Certificate:** 33400 in the name of VARDYN F. AND MARY J. BUCHANAN  
(perfected under Permit S-27612)  
**Use:** IRRIGATION of 26.0 ACRES  
**Priority Date:** SEPTEMBER 18, 1961  
**Rate:** 0.33 CUBIC FOOT 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, 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** BEAVER CREEK, a tributary of MUDDY CREEK, MARYS RIVER AND WILLAMETTE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	5 W	WM	8	SW NE	1930 FEET WEST AND 440 FEET NORTH FROM THE SW CORNER OF HARRIS DLC 43

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
13 S	5 W	WM	8	NE NE		0.6
13 S	5 W	WM	8	NW NE		12.2
13 S	5 W	WM	8	SW NE	3	13.2

6. The Certified Water Rights Examiner provided information describing the point of diversion under Certificate 33400 as being:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	5 W	WM	8	SW NE	1940 FEET WEST AND 440 FEET NORTH FROM THE SW CORNER OF DLC 43 (440 FEET NORTH AND 380 FEET EAST FROM THE NE CORNER OF DLC 41)

7. Transfer application T-11730 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
13 S	5 W	WM	5	SE SW	2	0.6
13 S	5 W	WM	5	SW SE		4.4
13 S	5 W	WM	8	NW NE		2.8
13 S	5 W	WM	8	NE NW	1	15.2
13 S	5 W	WM	8	SE NW	2	3.0

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

9. Water has been used within the last five years on 3.4 of the 26.0 acres involved in this transfer 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.
10. Water may not have been used on 22.6 acres according to the terms and conditions of the right within the five years prior to submittal of the transfer application. However, these acres are part of the Wetland Reserve Program with the Natural Resources Conservation Service. The applicant, therefore, has sufficiently rebutted the presumption of forfeiture in accordance with ORS 540.610(2)(e).
11. A pump, pipeline, and sprinkler system sufficient to use the amount of water allowed under the existing right, for the land that is not part of the Wetland Reserve Program, was present within the five-year period prior to submittal of Transfer Application T-11730.
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**

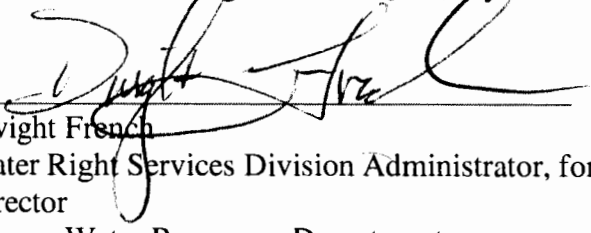
The change in place of use proposed in Transfer Application T-11730 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

1. The change in place of use proposed in Transfer Application T-11730 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 33400 and any related decree.
3. Water Right Certificate 33400 is cancelled.
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, 2015**. 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 18 day of June, 2014.

  
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Dwight French  
Water Right Services Division Administrator, for  
Director  
Oregon Water Resources Department

Mailing date: JUL 01 2014