

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

In the Matter of Transfer Application            )     FINAL ORDER APPROVING A  
T-10810, Lake 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**

LAKEVIEW WATER USERS, INC.  
91164 WATER USERS LANE  
LAKEVIEW, OR 97630

**Receiving Landowner**

NICHOLAS A. RAGO  
17734 BUCK ROAD  
LAKEVIEW, OR 97630

**Findings of Fact**

**Background**

1. On March 9, 2009, Lakeview Water Users, Inc. filed an application to change the place of use under Certificate 82202 and Transfer Application T-4209. The Department assigned the application number T-10810.
2. Transfer Application T-4209 modified a portion of the water rights described in Certificate 47469 issued in the name of Lakeview Water Users, Inc. Certificate 47469 preceded Certificate 82202.
3. On July 28, 2008, Certificate 82202 was superseded by Certificate 85703. On September 25, 2009, Certificate 85703 was superseded by Certificate 85839.
4. On April 8, 2011, the Department issued an order recorded at Special Order Volume 83, Pages 932 to 933, determining proper proof of changes in place of use under Transfer Application T-4209. The determination of proper proof established the authorized place of use for some of the lands proposed for transfer in Transfer Application T-10810.

This is a final 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 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 applicant initially proposed to transfer only the irrigation rights appurtenant to specific lands, but amended the application on April 27, 2011, to include additional supplemental water rights.

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

**Certificate:** 85839 in the name of Lakeview Water Users Inc. (confirmed by Goose Lake decree) and the right confirmed under T-4209

**Use:** IRRIGATION of 18.60 ACRES

**Priority Date:** JANUARY 21, 1907, Drews Creek; JULY 31, 1908 , Cottonwood Creek

**Limit/Duty:** The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.68 cubic foot per second (cfs) being; 0.36 cfs from Drews Creek and Reservoir and 0.32 cfs from Cottonwood Creek and Reservoir, measured at the point of diversion from the source.

**Source:** Drews Creek, Drews Reservoir, Cottonwood Creek, and Cottonwood Reservoir, tributaries to Goose Lake

**Authorized Point of Diversion:**

TWP	RNG	MER	SEC	Q-Q	SOURCE	MEASURED DISTANCES
38 S	19 E	W.M.	29	NW SW	COTTONWOOD CREEK RESERVOIR	580 FEET SOUTH AND 900 FEET EAST FROM THE W1/4 CORNER OF SECTION 29
39 S	19 E	W.M.	16	NE NE	COTTONWOOD CREEK	860 FEET SOUTH AND 1120 FEET WEST FROM THE NE CORNER OF SECTION 16
40 S	18 E	W.M.	5	SW SE	DREWS CREEK RESERVOIR	120 FEET NORTH AND 1820 FEET WEST FROM THE SE CORNER OF SECTION 5
40 S	18 E	W.M.	11	SE NW	DREWS CREEK	1850 FEET SOUTH AND 3400 FEET WEST FROM THE NE CORNER OF SECTION 11

**Authorized Place of Use:**

WATER RIGHT	TWP	RNG	MER	SEC	Q-Q	ACRES
CERTIFICATE 85839	39 S	19 E	W.M.	26	SE SE	9.30
T-4209	39 S	19 E	W.M.	26	SE SE	9.30
TOTAL:						18.60

7. Application T-10810 also proposes to change the place of use of the right to:

WATER RIGHT	TWP	RNG	MER	SEC	Q-Q	ACRES
CERTIFICATE 85839	39 S	19 E	W.M.	26	SW SW	9.30
T-4209	39 S	19 E	W.M.	26	SW SW	9.30
TOTAL:						18.60

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

**Permit:** 43956 in the name of Lakeview Water Users Inc.

**Use:** SUPPLEMENTAL IRRIGATION of 9.30 ACRES

**Priority Date:** SEPTEMBER 5, 1961

**Rate:**

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to a diversion of ONE-FORTIETH (1/40) 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** COTTONWOOD RESERVOIR ENLARGEMENT, tributary to GOOSE LAKE

**Authorized Point of Diversion:**

TWP	RNG	MER	SEC	Q-Q	SOURCE	MEASURED DISTANCES
38 S	19 E	W.M.	29	NW SW	COTTONWOOD CREEK RESERVOIR	2171 FEET NORTH AND 778 FEET EAST FROM SW CORNER OF SECTION 29

**Authorized Place of Use:**

TWP	RNG	MER	SEC	Q-Q	ACRES
39 S	19 E	W.M.	26	SE SE	9.30

9. Application T-10810 also proposes to change the place of use of the right to:

TWP	RNG	MER	SEC	Q-Q	ACRES
39 S	19 E	W.M.	26	SW SW	9.30

10. Notice of the application for transfer was published on March 17, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
11. On May 5, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10810 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 6, 2011, for the applicants to respond. The applicants requested the Department proceed with issuance of a Preliminary Determination and the Department verified the applicant is authorized to pursue the transfer.
12. On June 15, 2011, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10810 and mailed a copy to the applicant and responsible landowners. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on June 21, 2011. No protests were received.

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

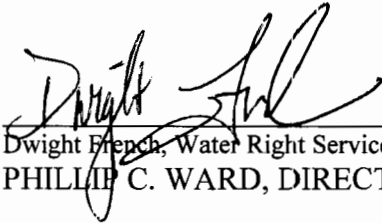
13. Water has been used within the five-year period prior to submittal of the transfer application according to the terms and conditions of the right. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
14. A diversion structure and ditch 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-10810.
15. The proposed change would not result in enlargement of the right.

16. The proposed change would not result in injury to other water rights.

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

1. The change in place of use proposed in application T-10810 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 Special Order Volume 83, Pages 932 to 933 for T-4209, Certificate 85839, Permit 43956 and any related decree.
3. The water rights described by T-4209, Certificate 85839 and Permit 43956 are modified. The Department will issue superseding certificates describing the rights when it determines that is necessary for record keeping.
4. The former place of use of the transferred rights shall no longer receive water under the rights.
5. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**.
6. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.

Dated at Salem, Oregon this 27 day of July, 2011.



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

Mailing Date: JUL 28 2011