

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

In the Matter of Transfer Application) ORDER APPROVING CHANGE IN
T-11686, Deschutes County) POINT OF DIVERSION

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

PINE MEADOW RANCH
ATTN: CRIS CONVERSE
PO BOX 969
SISTERS, OR 97759

Findings of Fact

1. On November 18, 2013, Pine Meadow Ranch filed an application to change the point of diversion under Certificates 293, 44043, and 74141. The Department assigned the application number T-11686.
2. Notice of the application for transfer was published on November 26, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 16, 2013, the applicant amended the application to reflect a portion of Certificate 75141 as the only certificate involved in this transfer application.
4. On December 19, 2013, the applicant's agent requested the Department amend the application to identify by coordinates the location of the proposed point of diversion.
5. On January 2, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11686 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 16, 2014, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination. The necessary information was provided to demonstrate that the applicant is authorized to pursue the transfer.

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.

6. On January 15, 2014, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11686, and sent a copy to the applicant. Additionally, notice of the Preliminary Determination was published in the Department's weekly notice on January 21, 2014, and in the *Bend Bulletin* newspaper on January 24 and 31, 2014. No protests were filed in response to the notices.
7. The portion of the right to be transferred is as follows:

Certificate: 75141 in the name of ROSS B. HAMMOND (confirmed by Squaw [Whychus] Creek Decree, 1914)
Use: IRRIGATION of 22.0 ACRES
Priority Date: 1906
Rate: 0.44 CUBIC FOOT PER SECOND
Source: SQUAW CREEK, tributary to the DESCHUTES RIVER
Authorized Point of Diversion: (Not listed)

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	10 E	WM	8	NE SE	14.5
15 S	10 E	WM	8	SE SE	7.5

8. Certificate 75141 does not describe the location of the authorized point of diversion, however information is available from the Whychus Creek Decree, the Watermaster, and the transfer map submitted indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Coordinates
15 S	10 E	WM	17	NE SE	LATITUDE: 44.268085 LONGITUDE: 121.558340

9. Transfer Application T-11686 proposes to move the authorized point of diversion approximately 1.25 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Coordinates
15 S	10 E	WM	9	SW SW	LATITUDE: 44.280227 LONGITUDE: 121.553322

10. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen.

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

11. 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.

12. A diversion structure and ditch 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-11686.
13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in point of diversion proposed in Transfer Application T-11686 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 point of diversion proposed in Transfer Application T-11686 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 75141 and any related decree.
3. Water right certificate 75141 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
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 new point of diversion.
 - 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 is located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.
7. The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2014**. 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.
9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 28 day of February, 2014.


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

Mailing date: MAR 12 2014