

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

In the Matter of Transfer Application     )     FINAL ORDER APPROVING  
T-11457, Jefferson County                 )     A CHANGE IN POINTS OF DIVERSION  
   )     TO REFLECT HISTORIC 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**

CAROL WILLIAMS  
P.O. BOX 422  
CAMP SHERMAN, OR 97730

**Findings of Fact**

1. On August 2, 2012, Carol Williams filed a transfer application for authorization of historic points of diversion under Certificate 76025. The Department assigned the application number T-11457.
2. Notice of the application for transfer was published on August 14, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 7, 2013, the Department sent a draft Final Order to the Applicant requesting submittal of an ownership report and setting a deadline of November 7, 2013, to respond.
4. On December 5, 2013, the applicant requested an Administrative Hold be placed on the application to allow the applicant to address conditions requiring fish screens and flow meters in the draft order.
5. On November 10, 2014, the applicant contacted the Department and requested the Department move forward on the Transfer Application.

6. The right to be transferred is as follows:

**Certificate:** 76025 in the name of JOHN BRUNS (confirmed by Deschutes River Decree)  
**Use:** IRRIGATION of 52.5 ACRES, DOMESTIC AND STOCK USE

<p>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.</p>
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**Priority Date:** 1888

**Rate:** 0.88 CUBIC FEET PER SECOND

**Limit/Duty:** The amount of water to which this right is entitled for the purposes aforesaid is limited to an amount actually used beneficially used for said purposes and shall not exceed 3 acre-feet per acre measured at the point of diversion from the stream, which may be diverted at a rate of not to exceed 1/60th of one cubic foot per second per acre during the irrigation season from May 1 to September 15; and shall be subject to all other conditions and limitations contained in said decree.

**Source:** LAKE CREEK

**Authorized Point of Diversion:** Not specified on the certificate.

**Authorized Place of Use:**

IRRIGATION, DOMESTIC AND STOCK USE					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	9 E	WM	16	NE NE	6.2
13 S	9 E	WM	16	NW NE	33.7
13 S	9 E	WM	16	SW NE	12.6

7. Certificate 76025 does not describe the location of the point of diversion, however information available from the applicant indicating the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
13S	9E	WM	17	NW SE	POD#1 Latitude 44.44246, Longitude -121.68118

8. Transfer Application T-11457 proposes additional points of diversion approximately 3/4 of a mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
13S	9E	WM	16	SE NW	POD#2 Latitude 44.44579, Longitude -121.669185
13S	9E	WM	16	NW NE	POD#3 Latitude 44.44685, Longitude -121.66160
13S	9E	WM	16	NW NE	POD#4 Latitude 44.446793, Longitude -121.66143
13S	9E	WM	16	NW NE	POD#5 Latitude 44.44679, Longitude -121.66142

9. The Oregon Department of Fish and Wildlife (ODFW) have determined that a fish screens are necessary at the new points of diversion to prevent fish from entering the diversions and that the diversions are not currently equipped with an appropriate fish screen. These diversions may be eligible for screening cost-share funds.

**Transfer Review Criteria (ORS 540.532 and OAR 690-380-2120)**

10. Pursuant to OAR 690-380-2120(2)(a), evidence has been submitted that the actual, current points of diversion for the water right in question, as described in Finding of Fact #6, have been in use for more than 10 years.
11. Pursuant to OAR 690-380-2120(2)(c), the Watermaster provided a statement that to his knowledge there has been no complaint of injury due to the use of water at the actual, current points of diversion, prior to the transfer request.

12. The Department did not identify any affected water rights pursuant to OAR 690-380-2120(3).
13. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
14. A diversion ditch sufficient to use the full amount of water allowed under the existing right is present. Pumps, pipelines, and sprinkler systems sufficient to use the full amount of water allowed under the existing right are present.
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.

### **Conclusions of Law**

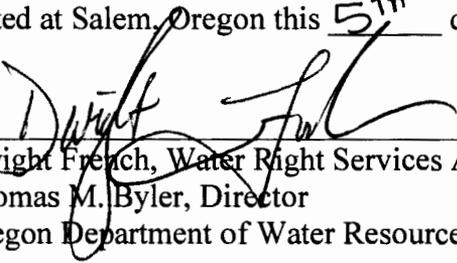
The proposed change in points of diversion to reflect historical use in Transfer Application T-11457 is consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

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

1. The change proposed in Transfer Application T-11457 is approved and effective immediately.
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 76025 and any related decree.
3. Water right certificate 76025 is cancelled. Certificate 88891 will be issued to describe the change in points of diversion for the portion of the right included in Transfer application T-11457. Certificate 88890 shall be issued to describe the portion of Certificate 76025 not modified by this order. Together, the new Certificates shall supersede Certificate 76025.
4. The quantity of water diverted at the additional points of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
5. Prior to October 1, 2016, the water user shall install and maintain an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
6. Prior to diverting water, the water user shall install approved fish screens at the new points of diversion and shall provide to the Department a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screens meet the state's criteria, or that ODFW has determined screens are not necessary.

7. The water user shall operate and maintain fish screens at the new points of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screens are not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that the Department regulate the use of water until notification to the Department has been received from ODFW that the fish screens are functioning properly.

Dated at Salem, Oregon this 5<sup>th</sup> day of December 2014.

  
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Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director  
Oregon Department of Water Resources

Mailing date: DEC 16 2014