

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

In the Matter of Transfer Application)
T-11754, Deschutes County)
)
) **FINAL ORDER APPROVING A
CHANGE IN POINT OF
APPROPRIATION AND PLACE OF
USE**

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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

ROGER AND SUSIE JOHNSON
70030 MEADOW VIEW RD
SISTERS, OR 97759

Findings of Fact

1. On March 10, 2014, ROGER JOHNSON filed an application to change the point of appropriation (poa) and to change the place of use (pou) under Certificate 80627. The Department assigned the application number T-11754.
2. Notice of the application for transfer was published on March 18, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 29, 2014, the Department contacted the applicant's agent by telephone and by written correspondence to notify them of deficiencies in the application. The Department requested that the deficiencies be resolved by October 30, 2014. The main deficiency being that there was a discrepancy in the amount of acres between the certificate and the application and transfer map.
4. On October 6 and 7, 2014, the Department received amendments resolving the deficiencies in the application. At this time, Susie Johnson was added to the application as an applicant.

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. On October 9, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11754 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of November 10, 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 applicant is authorized to pursue the transfer.
6. On October 29, 2014, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11754 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on November 4, 2014, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. The portion of the right to be transferred is as follows:

Certificate: 80627 in the name of EVERETT A. & LORRI L. MELTON (perfected under Permit G-11250)
Use: IRRIGATION of 3.00 ACRES
Priority Date: DECEMBER 17, 1990
Rate: 0.04 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, is limited to a diversion of ONE-EIGHTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL in the SQUAW CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	10 E	WM	3	SW NW	1425 FEET SOUTH AND 238 FEET EAST FROM THE NW CORNER OF SECTION 3

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	10 E	WM	3	NE NW	0.04
15 S	10 E	WM	3	SW NW	0.66
15 S	10 E	WM	3	SE NW	2.30

8. Transfer Application T-11754 proposes to move the authorized point of appropriation approximately 300 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	10 E	WM	3	SW NW	POA 2: 1701 FEET SOUTH AND 372 FEET EAST FROM THE NW CORNER OF SECTION 3

9. Transfer Application T-11754 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	10 E	WM	3	SW NW	3.00

Transfer Review Criteria (OAR 690-380-4010)

- 10. 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.
- 11. A pump, pipeline, and sprinkler system 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-11754.
- 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.
- 14. All other application requirements are met.

Conclusion of Law


The change in point of appropriation and change in place of use proposed in Transfer Application T-11754 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

Now, therefore, it is ORDERED:

- 1. The change in point of appropriation and change in place of use proposed in Transfer Application T-11754 are 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 80627 and any related decree.
- 3. Water right Certificate 80627 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 appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
- 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 appropriation.
 - 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. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
- 7. The former place of use of the transferred right shall no longer receive water under the right.
- 8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2016**. 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 changes 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 8 day of December, 2014.



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

Mailing Date: DEC 16 2014