

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

In the Matter of Transfer Application) FINAL ORDER APPROVING AN
T-11620, Jackson County) ADDITIONAL 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

ROGER LIND
23553 HEATHER KNOLLS PL
KNEWHALL, CA 91321

Findings of Fact

1. On June 20, 2013, ROGER LIND filed an application for an additional point of diversion under Certificate 56493. The Department assigned the application number T-11620.
2. Notice of the application for transfer was published on June 25, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 9, 2013, transfer application T-11698 was filed to modify water right Certificate 56493, the same certificate proposed to be modified in T-11620.
4. On March 14, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11620 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 15, 2014, for the applicant to respond. The applicant 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.
5. On May 7, 2014, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11620 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on May 13, 2014, and in the Medford Mail Tribune newspaper on

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.

May 13 and 20, 2014, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 56493 in the name of MAUD KUBLI (confirmed by Rogue River Decree)
Use: IRRIGATION of 23.8 ACRES, DOMESTIC USE AND STOCK USE IN TRACT 1
Priority Date: 1866
Rate: 0.60 CUBIC FOOT PER SECOND
Source: APPLGATE RIVER, tributary to the ROGUE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
38 S	3 W	WM	30	SE SW	2510 FEET SOUTH AND 3370 FEET WEST FROM THE NE CORNER OF GEORGE LONG DLC 39

Authorized Place of Use:

IRRIGATION, LIVESTOCK AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
38 S	4 W	WM	23	SE SW	4.0
38 S	4 W	WM	23	SW SE	5.3
38 S	4 W	WM	26	NW NE	5.4
38 S	4 W	WM	26	NE NW	9.1

7. Transfer Application T-11620 proposes an additional point of diversion approximately two miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
38 S	4 W	WM	26	NE NW	PORTABLE PUMP: BETWEEN A POINT 490 FEET SOUTH AND 640 FEET WEST AND A POINT 905 FEET SOUTH AND 550 FEET WEST FROM THE N1/4 CORNER OF SECTION 26

8. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds

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

9. 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.

10. 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-11620.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

Conclusions of Law

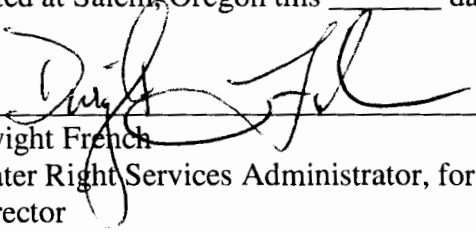
The additional point of diversion proposed in Transfer Application T-11620 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional point of diversion proposed in Transfer Application T-11620 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 56493 and any related decree.
3. Water right Certificate 56493 is modified and will be canceled upon approval or denial of T-11698. A new certificate will be issued describing that portion of the right not affected by Transfer Application T-11620 and Transfer Application T-11698.
4. The quantity of water diverted at the additional point of diversion, together with that diverted at the original 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 the 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 a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device meets the state's criteria. The water user shall operate and maintain the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

7. 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.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 1 day of July, 2014.



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

Mailing Date: **JUL 09 2014**