

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

In the Matter of Transfer Application) FINAL ORDER APPROVING OF A
T-12815, Josephine County) CHANGE IN PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish 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. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

MIKE AND GAIL MURPHY
6790 HOLLAND LOOP RD
CAVE JUNCTION, OR 97523

Findings of Fact

1. On January 2, 2018, MIKE AND GAIL MURPHY filed an application to change the place of use under Certificate 89393. The Department assigned the application number T-12815.
2. Notice of the application for transfer was published on January 16, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 29, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12815 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 30, 2018, for the applicant to respond. The Department only received information to demonstrate that the applicant is authorized to pursue the transfer.
4. On May 2, 2018, the Department contacted the applicant to determine if the applicant agreed to the findings and conditions outlined in the draft Preliminary Determination. The Department requested that the applicant respond by June 4, 2018.

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 May 30, 2018, the applicant requested that the Department proceed with issuance of a Preliminary Determination.
6. On June 14, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12815 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on June 19, 2018, 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: 89393 in the name of EVERETT G. CRUTCHFIELD (confirmed by SUCKER CREEK DECREE VOLUMES 1 AND 5, AT PAGES 252 AND 397)

Use: IRRIGATION OF 46.8 ACRES AND STOCK FOR TRACT #2 AND IRRIGATION OF 28.55 ACRES FOR TRACT #4

Priority Date: 1865 FOR TRACT #2 AND 1908 FOR TRACT #4

Rate: 0.94 CUBIC FEET PER SECOND (CFS) FOR TRACT #2, AND 0.36 CFS FOR TRACT #4, IF AVAILABLE AT THE ORIGINAL POINTS OF DIVERSION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	7 W	WM	29	NW SE	TRACT #4 - 1580 FEET NORTH AND 1000 FEET EAST FROM THE S1/4 CORNER OF SECTION 29
39 S	7 W	WM	32	NE NW	TRACT #2 - 250 FEET SOUTH AND 100 FEET WEST FROM THE N1/4 CORNER OF SECTION 32

Period of Use: APRIL 1 THROUGH OCTOBER 31 OF EACH YEAR

Source: SUCKER CREEK, tributary of the EAST FORK ILLINOIS RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	7 W	WM	31	NW SE	2257.9 FEET NORTH AND 134.7 FEET EAST FROM THE S1/4 CORNER OF SECTION 31

Authorized Place of Use:

IRRIGATION AND STOCK TRACT #2					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	7 W	WM	31	NE SE	1.00
39 S	7 W	WM	31	NW SE	31.60
39 S	7 W	WM	31	SW SE	14.20
Total					46.80

IRRIGATION TRACT #4					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	7 W	WM	31	NE SE	25.25
39 S	7 W	WM	31	SE SE	3.30
Total					28.55

8. Transfer Application T-12815 proposes to change the place of use of the right to:

IRRIGATION AND STOCK TRACT #2					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	7 W	WM	31	NE SE	25.25
39 S	7 W	WM	31	SE SE	14.20
39 S	7 W	WM	31	SE SE	6.35
39 S	7 W	WM	31	SE SE	1.00
Total					46.80

IRRIGATION TRACT #4					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	7 W	WM	31	NW SE	25.25
39 S	7 W	WM	31	SW SE	3.30
Total					28.55

9. The Department determined that a portion of the land to which Certificate 89393 is proposed to move is already covered by portions of a ground water registration for irrigation use.
10. Upon the issuance of a final order approving Transfer T-12815, the portions of Certificate 89393 and the certificate of registration that are appurtenant to the same place of use, as described in Finding #6, will become “layered” as defined by OAR 690-380-0100(4).
11. The Department is hereby notifying the applicant that, in accordance with OAR 690-380-2240, any future changes in place of use or character of use to the right evidence by Certificate 89393 may only be approved if concurrent changes to the “layered” portion of the ground water registrations (described in Finding #6) are also recognized or if affidavits of voluntary cancellation for the “layered” portion of the ground water registrations are submitted.

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

12. 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.
13. 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-12815.
14. The proposed change would not result in enlargement of the right.
15. The proposed change would not result in injury to other water rights.
16. All other application requirements are met.

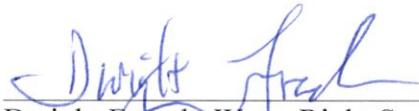
Conclusions of Law

The change in place of use proposed in Transfer Application T-12815 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 place of use proposed in Transfer Application T-12815 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 89393 and any related decree.
3. Water right Certificate 89393 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The former place of use of the transferred right shall no longer receive water under the right.
5. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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.
6. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this JUL 31 2018.



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

Mailing date: AUG 01 2018