

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

In the Matter of Transfer Application) FINAL ORDER APPROVING OF A
T-12844, Lake 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

BARNES LAKE COUNTY, LLC
2898 EAST CANYON CREEK COURT
GILBERT, AZ 85295

Receiving Landowner

MYRON L. AND JUDITH A. STEWARD
PO BOX 61
ADEL, OR 97620

Findings of Fact

1. On February 5, 2018, BARNES LAKE COUNTY, LLC filed an application to change the place of use under Certificate 93497. The Department assigned the application number T-12844.
2. MYRON L. AND JUDITH A. STEWARD is the receiving landowner who will be responsible for completion of the changes.
3. Notice of the application for transfer was published on February 13, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. On March 9, 2018, the Department contacted the applicant’s agent, Hollie Cannon, CWRE, by written correspondence to notify the applicant’s agent of the deficiencies in the application. The Department requested that the deficiencies be resolved by April 9, 2018.
5. On March 22, 2018, the Department received an amended Transfer Application map resolving the deficiency.

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 April 17, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12844 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 16, 2018, 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.
7. On June 14, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12844 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.
8. The portion of the right to be transferred is as follows:

Certificate: 93497 in the name of LAKEVIEW WATER USERS INC. (confirmed by Goose Lake (S) decree)

Use: IRRIGATION of 23.74 ACRES

Priority Date: JANUARY 21, 1907, DREWS CREEK AND JULY 31, 1908, COTTONWOOD CREEK

Rate: The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.87 CUBIC FOOT PER SECOND (CFS); being 0.46 CFS from DREWS CREEK AND RESERVOIR and 0.41 CFS from COTTONWOOD CREEK AND RESERVOIR, or its equivalent in case of rotation, measured at the point of diversion from the source.

Source: DREWS CREEK AND DREWS RESERVOIR, COTTONWOOD CREEK AND COTTONWOOD RESERVOIR, tributary to GOOSE LAKE

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	18 E	WM	11	SE NW	DREWS CREEK - 1850 FEET SOUTH AND 3400 FEET WEST FROM THE NE CORNER OF SECTION 11
40 S	18 E	WM	5	SW SE	DREWS CREEK RESERVOIR - 120 FEET NORTH AND 1820 FEET WEST FROM THE SE CORNER OF SECTION 5
39 S	19 E	WM	16	NE NE	COTTONWOOD CREEK - 860 FEET SOUTH AND 1120 FEET WEST FROM THE NE CORNER OF SECTION 16
38 S	19 E	WM	29	NW SW	COTTONWOOD RESERVOIR - 580 FEET SOUTH AND 900 FEET EAST FROM THE W1/4 CORNER OF SECTION 29

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	19 E	WM	18	NE NW	12.60
40 S	19 E	WM	18	SE NW	11.14
Total					23.74

9. Transfer Application T-12844 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	19 E	WM	23	SW NE	23.74

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

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 diversion structure and ditch sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-12844.
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.

Conclusions of Law

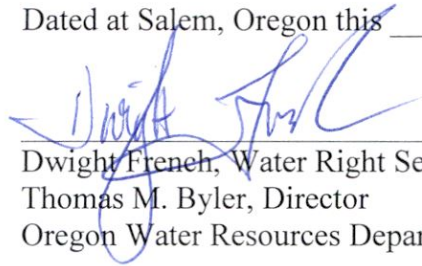
The change in place of use proposed in Transfer Application T-12844 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-12844 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 93497 and any related decree.
3. Water right Certificate 93497 is modified. The Department will issue a superseding certificate describing the right, NOT modified by this transfer, when it determines that it is necessary for record keeping.
4. The quantity of water diverted at the points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
5. The former place of use of the transferred right shall no longer receive water under the right.
6. 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.

7. After satisfactory proof of beneficial use is received, a new certificate in the name of Lakeview Water Users, Inc., 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