BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

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In the Matter of Transfer Application T-11872, Washington County FINAL ORDER APPROVING A CHANGE IN PLACE OF USE AND CHARACTER OF USE

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

U.S. BUREAU OF RECLAMATION ATTN BILL FERRY 1917 MARSH ROAD YAKIMA WA 98901

Findings of Fact

- 1. On August 5, 2014, U.S. BUREAU OF RECLAMATION filed an application to change the place of use and character of use under Certificate 87303. The Department assigned the application number T-11872.
- 2. Notice of the application for transfer was published on August 12, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On February 23, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11872 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 25, 2015, for the applicant to respond.
- 4. On February 24, 2015, the applicant's agent notified the Department that there was an error in the draft Preliminary Determination. A portion of the authorized place of use of Certificate 87303 was not described in the draft. This REVISED draft Preliminary Determination is issued to correctly describe the authorized place of use of Certificate 87303.

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 March 11, 2015, a revised draft preliminary determination was issued to correctly describe the authorized place of use of Certificate 87303. The revised draft Preliminary Determination cover letter set forth a deadline of April 10, 2015 for the applicant to respond. The applicant requested that the Department proceed with the issuance of the Preliminary Determination.
- 6. On April 24, 2015, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11872 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 April 28, 2015, and in the Hillsboro Tribune newspaper on May 6 and 13, 2015, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
- 7. The right to be transferred is as follows:

Certificate:	87303 in the name of U.S. BUREAU OF RECLAMATION (perfected
	under Permit S-35792)
Use:	IRRIGATION OF 200.1 ACRES
Priority Date:	FEBRUARY 20, 1963
Rate:	500.0 ACRE FEET OF STORED WATER
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 not to exceed 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.
Source:	SCOGGINS RESERVOIR/HENRY HAGG LAKE, CONSTRUCTED UNDER PERMIT R-5777, a tributary to Scoggins Creek

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	4 W	WМ	20	NE NE	SCOGGINS RESERVOIR - 700 FEET SOUTH AND 1030 FEET WEST FROM THE NE CORNER OF SECTION 20.

Authorized Point of Re-Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	3 W	WM	8	sw sw	SPRING HILL INTAKE - 500 FEET NORTH AND 410 FEET EAST FROM THE SW CORNER OF SECTION 8.

Authorized Place of Use:

	MUNIC	CIPAL II	RRIGA	TION	
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	2 W	WM	22	SE NE	1.6
1 N	2 W	WM	22	SW SW	3.5
1 N	2 W	WM	22	SE SW	0.3
1 N	2 W	WM	22	NE SE	3.6
1 N	2 W	WM	22	SE SE	2.9
1 N	2 W	WM	23	SW NW	2.6
1 N	2 W	WM	23	NE SW	2.0
1 N	2 W	WM	23	NW SW	27.9

	MUNIC	CIPAL II	RRIGA	TION	
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	2 W	WM	23	SW SW	18.2
1 N	2 W	WM	23	SE SW	0.1
1 N	2 W	WM	27	SW SE	1.1
1 N	2 W	WM	27	SE SE	2.5
1 N	2 W	WM	31	NW NE	2.7
1 N	2 W	WM	31	NE NW	3.7
1 N	2 W	WM	31	NW SW	1.9
1 N	2 W	WM	31	SW SW	2.0
1 N	2 W	WM	31	SE SW	0.2
1 N	2 W	WM	31	SE SE	0.3
1 N	2 W	WM	32	NE NE	5.9
1 N	2 W	WM	32	SE NE	9.9
1 N	2 W	WM	32	NE SE	10.4
1 N	2 W	WM	32	NW SE	1.2
1 N	2 W	WM	32	SW SE	4.2
1 N	2 W	WM	33	NE NW	0.3
1 N	2 W	WM	33	NW NW	10.2
1 N	2 W	WM	33	SW NW	26.0
1 N	2 W	WM	33	SE NW	7.8
1 N	2 W	WM	33	NW SW	2.6
1 N	2 W	WM	34	NW SW	2.6
1 N	3 W	WM	36	SE NE	0.5
1 N	3 W	WM	36	NE SE	1.3
1 S	2 W	WM	5	NE NW	1.9
1 S	2 W	WM	5	NW NW	0.5
1 S	2 W	WM	6	SW NE	4.2
1 S	2 W	WM	6	SE NE	9.6
1 S	2 W	WM	6	SW NW	1.6
1 S	2 W	WM	6	SE NW	0.8
1 S	2 W	WM	6	NE SW	8.6
1 S	2 W	WM	6	SE SW	2.6
1 S	2 W	WM	6	NE SE	1.0
1 \$	2 W	WM	6	NW SE	4.4
1 S	2 W	WM	6	SW SE	4.9
· · · · ·				TOTAL	200.1

- 8. Transfer Application T-11872 proposes to change the character of use to municipal use.
- 9. Transfer Application T-11872 also proposes to change the place of use of the right to:

MUNICIPAL USE
CITY OF HILLSBORO'S SERVICE AREA WITHIN THE CITY LIMITS OF
THE CITY OF HILLSBORO

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

- 10. Water has been used within the last five years. 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 pipeline 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-11872.
- 12. The proposed changes, if conditioned to limit the use of water to 500 acre feet stored water only during the irrigation season of each year, would not enlarge the right.
- 13. The proposed changes, as conditioned, would not result in injury to other water rights.

Conclusions of Law

The change in place of use and character of use proposed in Transfer Application T-11872 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

- 1. The changes in place of use and character of use proposed in Transfer Application T-11872 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 87303 and any related decree.
- 3. Water Right Certificate 87303 is cancelled.
- 4. 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 point of diversion.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
- 5. The use of water for the proposed municipal use shall be limited to 500 acre-feet stored water only during the irrigation season of each year.
- 6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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.

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

Dated at Salem, Oregon this _____ day of June, 2015.

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

Mailing date: _____JUN 19 2015