

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

In the Matter of Transfer Application) PRELIMINARY DETERMINATION
T-8313, Lake County) PROPOSING APPROVAL OF A
) CHANGE IN PLACE OF USE

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

LAKEVIEW WATER USERS, INC.
91164 WATER USERS LANE
LAKEVIEW, OR 97630

Responsible Landowners

BOBBY R. and BILLIE L. EVANS
c/o EVANS & BARTLETT CPAs LLP
411 CENTER STREET
LAKEVIEW, OR 97630

Findings of Fact

Background

1. On July 28, 1999, Bobby R. and Billie L. Evans filed an application to change the place of use under Certificate 76187. The Department assigned the application number T-8313.
2. On August 22, 2006, Certificate 76187 was superseded by Certificate 82202. On July 28, 2008, Certificate 82202 was superseded by Certificate 85703. On September 25, 2009, Certificate 85703 was superseded by Certificate 85839.
3. On November 12, 2010, the Department issued an order recorded at Special Order Volume 83, Pages 41 to 42, determining proper proof of changes in place of use under Transfer Application T-5045. The determination of proper proof established the authorized place of use for some of the lands proposed for transfer in Transfer Application T-8313.
4. Transfer Application T-5045 modified a portion of the water rights confirmed by the Goose Lake Decree, and described in the preceding water right certificates issued in the name of Lakeview Water Users, Inc. from which Certificate 76187 derived.
5. The portion of the right to be transferred is as follows:
Certificate: 85839 in the name of Lakeview Water Users Inc. (confirmed by Goose Lake decree) and the right confirmed under T-5045

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

Use: IRRIGATION of 50.0 ACRES

Priority Date: JANUARY 21, 1907, Drews Creek; JULY 31, 1908 , Cottonwood Creek

Rate: 1.85 CUBIC FEET PER SECOND (cfs); being 0.975 cfs from Drews Creek and Reservoir and 0.875 cfs from Cottonwood Creek and Reservoir, measured at the point of diversion from the source.

Source: Drews Creek, Drews Reservoir, Cottonwood Creek, and Cottonwood Reservoir, tributaries to Goose Lake

Authorized Point of Diversion:

TWP	RNG	MER	SEC	Q-Q	SOURCE	MEASURED DISTANCES
38 S	19 E	W.M.	29	NW SW	COTTONWOOD CREEK RESERVOIR	580 FEET SOUTH AND 900 FEET EAST FROM THE W1/4 CORNER OF SECTION 29
39 S	19 E	W.M.	16	NE NE	COTTONWOOD CREEK	860 FEET SOUTH AND 1120 FEET WEST FROM THE NE CORNER OF SECTION 16
40 S	18 E	W.M.	5	SW SE	DREWS CREEK RESERVOIR	120 FEET NORTH AND 1820 FEET WEST FROM THE SE CORNER OF SECTION 5
40 S	18 E	W.M.	11	SE NW	DREWS CREEK	1850 FEET SOUTH AND 3400 FEET WEST FROM THE NE CORNER OF SECTION 11

Authorized Place of Use:

WATER RIGHT	TWP	RNG	MER	SEC	Q-Q	ACRES
CERTIFICATE 85839	40 S	18 E	W.M.	24	NE SE	26.7
CERTIFICATE 85839	40 S	18 E	W.M.	24	NW SE	3.0
CERTIFICATE 85839	40 S	18 E	W.M.	24	SE SE	0.3
T-5045	40 S	19 E	W.M.	18	NW SE	20.0
TOTAL:						50.0

6. Application T-8313 proposes to change the place of use of the right to:

TWP	RNG	MER	SEC	Q-Q	ACRES
40 S	18 E	W.M.	25	NE NW	14.44
40 S	18 E	W.M.	25	NW NW	4.84
40 S	18 E	W.M.	25	SW NW	0.50
40 S	18 E	W.M.	25	SE NW	30.22
TOTAL:					50.00

7. Notice of the application for transfer was published on August 3, 1999, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
8. On January 28, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-8313 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 2, 2011, for the applicants to respond. The applicants requested the Department proceed with issuance of a Preliminary Determination and the Department verified the applicant is authorized to pursue the transfer.

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

9. Water has been used within the five year period prior to submittal of the transfer application according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

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

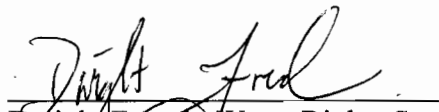
Determination and Proposed Action

The change in place of use proposed in application T-8313 appears to be consistent with the requirements of ORS 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.

If Transfer Application T-8313 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-8313 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 T-5045 and Certificate 85839 and any related decree.*
3. *The water rights described by T-5045 and Certificate 85839 are modified. The Department will issue a superseding certificate describing the right when it determines that is necessary for record keeping.*
4. *The former place of use of the transferred rights shall no longer receive water under the rights.*
5. *The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**.*
6. *A Claim of Beneficial Use prepared by a Certified Water Rights 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.*

Dated at Salem, Oregon this 29 day of April 2011.


Dwight French, Water Rights Services Administrator for
PHILLIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by Greg Nelson. If you have questions about the information in this document, you may reach me at 503-986-0888 or Greg.L.Nelson@ wrd.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

**Notice of Preliminary Determination for
Water Right Transfer T-8313**

T-8313 filed by LAKEVIEW WATER USERS, INC., 91164 WATER USERS LANE, LAKEVIEW, OR, 97630, and responsible landowners BOBBY R. AND BILLIE L. EVANS, c/o EVANS & BARTLETT CPAs LLP, 411 CENTER STREET, LAKEVIEW, OR, 97630, proposes a change in place of use under Certificate 85839 and the right confirmed under T-5045. The right allows the use of 1.85 CUBIC FEET PER SECOND (priority date JANUARY 21, 1907, Drews Creek; JULY 31, 1908, Cottonwood Creek) from DREWS CREEK and RESERVOIR and COTTONWOOD CREEK and RESERVOIR in Sec. 5 and 11, T 40 S, R 18 E, W.M., Sec. 29, T 38 S, R 19 E, W.M. and Sec. 16, T 39 S, R 19 E, W.M., for IRRIGATION in Sec. 24, T 40 S, R 18 E, W.M., and Sec. 18, T 40 S, R 19 E, W.M. The applicant proposes to change the place of use to Sec. 25, T 40 S, R 18 E, W.M. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000.