

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12365, Malheur County	)	PROPOSING APPROVAL OF A
	)	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

CHUCK PIPPUS
1850 DANNER LOOP RD
JORDAN VALLEY, OR 97910

Findings of Fact

1. On May 2, 2016, CHUCK PIPPUS filed an application to change the place of use under Certificates 56246 and 56247. The Department assigned the application number T-12365.
2. Notice of the application for transfer was published on May 10, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 29, 2016 the applicant submitted a revised application and maps.
4. On October 18, 2016 the applicant submitted a revised application and maps.
5. On December 12, 2016 the applicant submitted a revised application and maps.
6. On December 27, 2017 the applicant submitted amended maps.
7. On January 5, 2018, the applicant submitted a newly amended map.
8. On January 8, 2018, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12365 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 8, 2018, for the applicant to respond. The applicant requested the completion date be extended to October 1, 2020 and for 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.

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.

9. The first right to be transferred is as follows:

Certificate: 56246 in the name of ORAN RABURN (confirmed by Owyhee River Decree)
Use: IRRIGATION of 20.0 ACRES
Priority Date: WITHOUT DATE OF PRIORITY
Limit/Duty: The following are willow and rye grass lands, allowed a right by said decree, without date of priority, with the provision that such lands should be entitled to 2.0 acre-feet of water per acre prior to June 1st of each year, and should not receive water thereafter.
Source: JORDAN CREEK, tributary to the OWYHEE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
30 S	45 E	WM	3	SE NW	ADDITIONAL - 2340 FEET SOUTH AND 2250 FEET EAST FROM THE NW CORNER OF SECTION 3
30 S	46 E	WM	5	NW NW	URLEZAGA DITCH - 450 FEET SOUTH AND 700 FEET EAST FROM THE NW CORNER OF SECTION 5

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	45 E	WM	3	SW NE	15.0
30 S	45 E	WM	3	SE NW	5.0
Total					20.0

10. Transfer Application T-12365 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	45 E	WM	3	SW NE	5.7
30 S	45 E	WM	3	SE NW	4.5
30 S	45 E	WM	3	NE SE	5.9
30 S	45 E	WM	3	NW SE	0.7
30 S	45 E	WM	4	SE SE	3.2
Total					20.0

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

Certificate: 56247 in the name of ORAN RABURN (confirmed by Owyhee River Decree)
Use: IRRIGATION of 125.9 ACRES
Priority Date: 1887 for Tract #1 and 1880 for Tract #2
Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 2.0 acre-feet per acre prior to June 1st and 0.5 acre-foot per acre during the calendar month after June 1st of each irrigation season from April 1st to October 15th
Source: HOOKER CREEK and JORDAN CREEK for TRACT #1 AND JORDAN CREEK for TRACT #2, tributary to the OWYHEE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
29 S	45 E	WM	36	SW SE	ORIGINAL (HOOKER CREEK) - 900 FEET NORTH AND 780 FEET EAST FROM SOUTH 1/4 CORNER OF SECTION 36
30 S	45 E	WM	1	SW NE	EIGUREN DITCH (JORDAN CREEK) - 3845 FEET NORTH AND 90 FEET EAST FROM THE SOUTH 1/4 CORNER OF SECTION 1
30 S	45 E	WM	3	SE NW	ADDITIONAL (JORDAN CREEK) - 2340 FEET SOUTH AND 2250 FEET EAST FROM THE NW CORNER OF SECTION 3
30 S	46 E	WM	5	NW NW	URLEZAGA DITCH (JORDAN CREEK) - 450 FEET SOUTH AND 700 FEET EAST FROM THE NW CORNER OF SECTION 5

Authorized Place of Use:

IRRIGATION					
TRACT #1 - 1887 (JORDAN CREEK & HOOKER CREEK)					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	45 E	WM	3	SW NE	6.9
30 S	45 E	WM	3	SE NW	4.0
30 S	45 E	WM	3	NW SW	25.2
30 S	45 E	WM	4	SE SE	14.3
Total					50.4

IRRIGATION					
TRACT #2 - 1880 JORDAN CREEK					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	45 E	WM	3	SW SW	0.5
30 S	45 E	WM	3	SE SW	14.0
30 S	45 E	WM	3	NE SE	10.0
30 S	45 E	WM	3	NW SE	4.0
30 S	45 E	WM	3	SW SE	9.0
30 S	45 E	WM	9	NE NE	19.0
30 S	45 E	WM	10	NW NW	19.0
Total					75.5

12. Transfer Application T-12365 proposes to change the place of use of the right to:

IRRIGATION					
TRACT #1 - 1887 (JORDAN CREEK & HOOKER CREEK)					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	45 E	WM	3	SW NE	18.6
30 S	45 E	WM	3	SW NW	1.5
30 S	45 E	WM	3	SE NW	17.0
30 S	45 E	WM	4	SW SE	4.6
30 S	45 E	WM	9	NW NE	8.7
Total					50.4

IRRIGATION					
TRACT #2 – 1880					
JORDAN CREEK					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	45 E	WM	3	SW NE	1.5
30 S	45 E	WM	3	NE SW	3.0
30 S	45 E	WM	3	NW SW	32.0
30 S	45 E	WM	3	SE NW	9.5
30 S	45 E	WM	3	SW NW	1.0
30 S	45 E	WM	4	SW SE	1.5
30 S	45 E	WM	4	SE SE	26.0
30 S	45 E	WM	9	NW NE	1.0
Total					75.5

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

13. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
14. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-12365.
15. The proposed change would not result in enlargement of the rights.
16. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

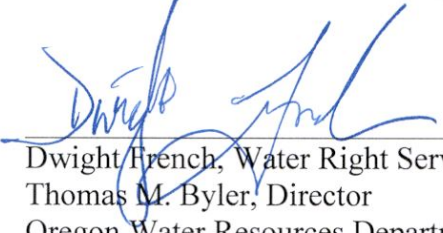
The change in place of use proposed in Transfer Application T-12365 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-12365 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-12365 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 Certificates 56246 and 56247 and any related decree.*
3. *Water right Certificate 56246 is cancelled.*
4. *Water right Certificate 56247 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
5. *The former place of use of the transferred rights shall no longer receive water under the rights.*

6. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this APR 12 2018


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

This Preliminary Determination was prepared by Arla Heard. If you have questions about the information in this document, you may reach me at 503-986-0806 or arla.l.heard@oregon.gov.

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

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>