

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13265, Wasco County)	PROPOSING APPROVAL OF
)	CHANGES IN PLACE OF USE AND
)	CHARACTER 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

HERB SNODGRASS
PO BOX 325
MAUPIN, OR 97037

Applicant

CRAIG H. ERICSON IRREVOCABLE TRUST
GARY ERICSON, TRUSTEE
10825 S. FIR STREET
JENKS, OK 74037

Agent

TENNESON ENGINEERING CORPORATION
ATTN.: LARRY TOLL, CWRE
3775 CRATES WAY
THE DALLES, OR 97058

Findings of Fact

1. On October 7, 2019, Herb Snodgrass and Gary Ericson filed an application to change the place of use and character of use under Certificates 77326 and 77733. The Department assigned the application number T-13265.
2. Notice of the application for transfer was published on October 15, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 5, 2020, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13265 to applicant Herb Snodgrass. The Department failed to send out a draft Preliminary Determination to Mr. Gary Ericson, also an applicant. Subsequently the Department has found it necessary to issue a revised draft of the Preliminary Determination to Mr. Ericson and provide an additional 30 days in which to

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.
--

respond. The revised draft of the Preliminary Determination cover letter set forth a deadline of October 1, 2020, for the applicants to respond.

4. On December 24, 2020, the agent for the applicant and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
5. On January 4, 2021, the agent for the applicant requested that the Department proceed with issuance of a Preliminary Determination. .
6. The portion of the first right to be transferred is as follows:

Certificate: 77326 (as modified by Special Ord. Vol. 112, Pg. 820, documenting completion of T-10504) in the name of JUNIPER FLAT DISTRICT IMPROVEMENT CO. (confirmed by White River Decree of the Circuit Court of the State of Oregon for Wasco County)

Use: IRRIGATION of 6.0 ACRES

Priority Date: JULY 1, 1903 for DIRECT FLOW FROM CLEAR CREEK and FROG CREEK, and AUGUST 19, 1904, from STORAGE IN CLEAR LAKE RESERVOIR

Limit/Duty: ONE ACRE FOOT PER ACRE OR ACRE EQUIVALENT during any 30-DAY PERIOD UP TO JULY 1st of each year AND NOT TO EXCEED 3.0 ACRE FEET PER ACRE OR ACRE EQUIVALENT during any irrigation season; PROVIDED, THAT THE RATE OF FLOW SHALL NOT EXCEED 1/40th OF A SECOND FOOT PER ACRE OR ACRE EQUIVALENT UP TO JULY 1st OF EACH YEAR AND THEREAFTER NOT TO EXCEED 1/80th OF A SECOND FOOT PER ACRE OR ACRE EQUIVALENT, EXCEPT IN CASE OF ROTATION

Source: DIRECT FLOW FROM CLEAR CREEK and FROG CREEK and STORAGE IN CLEAR LAKE RESERVOIR, a tributary of WHITE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Source
4 S	9 E	WM	32	SE SE	CLEAR LAKE RESERVOIR DAM
4 S	9 E	WM	34	NE NE	FROG CREEK
5 S	9 E	WM	10	NW* SE	CLEAR CREEK

* Note: a scrivener's error was found in the POD description for the Clear Creek diversion. See Finding #7 below for correction.

Certificate: 77733 (as modified by Special Ord. Vol. 112, Pg. 820, documenting completion of T-10504) in the name of JUNIPER FLAT DISTRICT IMPROVEMENT COMPANY (perfected under Permit S-25275)

Use: SUPPLEMENTAL IRRIGATION of 6.0 ACRES

Priority Date: NOVEMBER 11, 1915

Quantity: 33.19 ACRE FEET STORED WATER ONLY

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 4.2 ACRE-FEET for each acre irrigated or ACRE EQUIVALENT DURING THE IRRIGATION SEASON OF EACH YEAR

Source: CLEAR LAKE RESERVOIR (constructed under Permit R-2106), a tributary of WHITE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 S	9 E	WM	32	SE SE	1390 FEET SOUTH AND 480 FEET WEST FROM THE E¼ CORNER OF SECTION 32

Authorized Places of Use:

IRRIGATION (IR) and SUPPLEMENTAL IRRIGATION (IS)							
Twp	Rng	Mer	Sec	Q - Q	TL#	Certificate (acres)	
						77326 (IR)	77733 (IS)
5 S	12 E	WM	25	SW NW	100	6.0	6.0
Totals:						6.0	6.0

- Certificate 77326 contains a scrivener’s error in its quarter-quarter description for the Point of Diversion (POD) for the Clear Creek diversion described above in Finding #6. The certificate incorrectly lists the quarter-quarter as the NW¼ SE¼. Based on the Juniper Flat District Improvement Company’s HB3111 maps and the applicant’s Certified Water Rights Examiner’s current (Toll/2015) map based on a recent field visit and subsequent survey, the Department is led to conclude that Certificate 77326 should be corrected to reflect the correct quarter-quarter description within the NE¼ SE¼, Section 10.
- Transfer Application T-13265 proposes to change the place of use of the above described 5.0 acres (of 6.0 acres) to:

IRRIGATION (IR) / SUPPLEMENTAL IRRIGATION (IS) and STOCK							
Twp	Rng	Mer	Sec	Q - Q	TL#	Certificate	
						77326 (IR)	77733 (IS)
5 S	12 E	WM	24	SE SE	6501	1.0	1.0
5 S	13 E	WM	8	SW SW	1700	4.0	4.0
Totals:						5.0	5.0

- Transfer Application T-13265 also proposes to change the place of use and character of use of the above described 1.0 acres (*acres equivalent*) to pond maintenance located:

POND MAINTENANCE							
Twp	Rng	Mer	Sec	Q - Q	TL#	Certificate (<i>acre equivalents</i>)	
						77326 (IR)	77733 (IS)
5 S	12 E	WM	24	SE SE	6501	0.5	0.5
5 S	13 E	WM	19	SW SW	4502	0.5	0.5
Totals:						1.0	1.0

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

- 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. There is no information in the record that would demonstrate that these rights are subject to forfeiture under ORS 540.610.

11. Diversion structures, ditches and district delivery system 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-13265.
12. The proposed changes would not result in injury to other water rights.
13. The proposed change would not result in enlargement of the rights.
14. All other application requirements are met.

Determination and Proposed Action

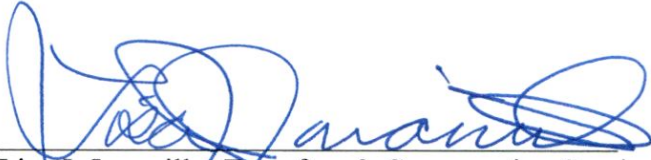
The changes in place of use and character of use proposed in Transfer Application T-13265 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-13265 is approved, the final order will include the following:

1. *The changes in place of use and character of use proposed in application T-13265 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 Certificates 77326 and 77733 and any related decree.*
3. *Water right Certificates 77326 and 77733 are modified. The Department will issue superseding certificates describing the rights when it is determined that it is necessary for record keeping. The Department shall also make the needed revision to correct the POD description for the Clear Creek diversion in Certificate 77326 as described above in Findings #6 and #7 at that time.*
4. *The Director requires all existing meters to be maintained by the district, consistent with all permitted and certificated water uses.*
5. *The former places 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, 2022. 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, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this MAR 1 4 2021.



Lisa J. Jaramillo, Transfers & Conservation Services Manager, for
Thomas M. Byler, Director
Oregon Water Resources Department

This Preliminary Determination was prepared by Ken Dowden. T-13265 is now assigned to Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or corey.a.courchane@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

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

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>



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

March 11, 2021

HERB SNODGRASS
PO BOX 325
MAUPIN, OR 97037

CRAIG H. ERICSON IRREVOCABLE
TRUST; GARY ERICSON, TRUSTEE
10825 S. FIR STREET
JENKS, OK 74037

SUBJECT: Water Right Transfer Application T-13265

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13265. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Dalles Chronicle newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

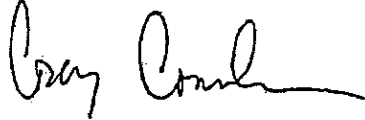
If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

Please do not hesitate to contact me, at corey.a.courchane@oregon.gov or (503) 986-0825, if I may be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Courchane". The signature is fluid and cursive, with a long horizontal stroke at the end.

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application T-13265
Robert L. Wood, District 3 Watermaster *(via e-mail)*
Larry M. Toll, Agent for the applicant *(via e-mail)*

encs