

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-14283, Wasco County)	PROPOSING APPROVAL OF A CHANGE IN
)	PLACES 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

CRABTREE ENDERSBY RANCH LLC
PO BOX 226
MAUPIN, OR 97037

Findings of Fact

1. On July 17, 2023, Crabtree Endersby Ranch, LLC, filed an application to change the place of use under Certificates 77326 and 77733. The Department assigned the application number T-14283.
2. Notice of the application for transfer was published on July 25, 2023, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. Transfer Application T-14283 proposes to transfer water rights involving certificates held by Juniper Flat District Improvement Company (District). On June 18, 2023, the District certified that they consented to the applicant's proposed water right transfer application and maps.
4. A Claim of Beneficial Use prepared by a Certified Water Right Examiner will be submitted by the District.
5. After proof of completion, any water right certificate issued to confirm or to describe confirmed changes to Certificates 77326 and 77733 under Transfer T-14283 are to remain in the name of the Juniper Flat District Improvement Company.

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 the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later, of this preliminary determination.

6. On August 20, 2024, the Department received correspondence from Josh Newton, Attorney for the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribe). The Tribe does not object to the Department processing the Transfer Application T-14283, in accordance with applicable law, and the Department's customary practice.
7. On November 20, 2024, the applicant provided documentation allowing Kim Mead to act as the agent for Transfer Application T-14283.
8. At time of submittal of Transfer Application T-14283, supporting documentation was not included with the evidence of use affidavit. On November 20 and 24, 2024, the agent for the applicant provided a copy of the Conservation Reserve Program (CRP) contract #CRP-1-CN-11234, indicating Certificates 77326 and 77733 were enrolled in the program during the 2020 irrigation season. The CRP contract is for Farm 1605, Tract 72, identified via email by the United States Department of Agriculture (USDA) that this contract includes the FROM lands proposed for transfer under Certificates 77326 and 77733.
9. On March 25, 2025, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14283 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 25, 2025, 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.
10. The portion of the first right to be transferred is as follows:

Certificate: 77326 in the name of JUNIPER FLAT DISTRICT IMPROVEMENT COMPANY (confirmed by White River Decree)

Use: IRRIGATION of 8.5 ACRES and STOCK

Priority Date: JULY 1, 1903, for direct live flow from Clear Creek and Frog Creek, and AUGUST 19, 1904, for 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 ONE-FORTIETH OF A SECOND FOOT PER ACRE OR ACRE EQUIVALENT UP TO JULY 1ST OF EACH YEAR AND THEREAFTER NOT TO EXCEED ONE-EIGHTIETH 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 of 1400 ACRE FEET in CLEAR LAKE RESERVOIR, tributaries of WHITE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Source of Water
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

Authorized Place of Use:

IRRIGATION and STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	12 E	WM	11	SE SW	8.5D

11. 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. The certificate incorrectly lists the quarter-quarter as the NW¼ SE¼. Based on the Juniper Flat District Improvement Company's HB 3111 maps, information provided by the applicant's agent, a past field visit and subsequent survey, the Department concluded that Certificate 77326 should be corrected to reflect the correct quarter-quarter description within the NE¼ SE¼, Section 10.

12. Transfer Application T-14283 proposes to change the place of use of the right to:

IRRIGATION and STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	13 E	WM	30	SE SE	8.5

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

Certificate: 77733 in the name of JUNIPER FLAT DISTRICT IMPROVEMENT COMPANY
(perfected under Permit S-25275)

Use: SUPPLEMENTAL IRRIGATION of 8.5 ACRES

Priority Date: NOVEMBER 11, 1915

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 Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	12 E	WM	11	SE SW	8.5

14. Transfer Application T-14283 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	13 E	WM	30	SE SE	8.5

Transfer Review Criteria [OAR 690-380-0100(14), OAR 690-380-4010(2), and OAR 690-380-2200]

15. Water has not been used on the portion of the rights proposed for transfer within the last five years according to the terms and conditions of rights, however, the applicant provided documentation that the portions of Certificates 77326 and 77733 proposed for transfer were enrolled in the Conservation Reserve Program (CRP) during the 2020 Irrigation season. The presumption of forfeiture would be rebutted under ORS 540.610.
16. A water delivery system sufficient to use the full amount of water allowed under the existing rights was present within the five-year period prior to submittal of Transfer Application T-14283.
17. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
18. The proposed change, as conditioned, would not result in enlargement of the rights.
19. The proposed change would not result in injury to other existing water rights.
20. All other application requirements are met.

Determination and Proposed Action

The change in places of use proposed in Transfer Application T-14283 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-14283 is approved, the final order will include the following:

1. *The change in places of use proposed in Transfer Application T-14283 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 77326 and 77733 and any related decree.*
3. *Approval of this transfer application does not constitute nor grant legal access onto or through another person's property for purposes of accessing the new place of use.*
4. *Water right Certificates 77326 and 77733 are modified. After satisfactory proof of completion has been determined by the Department, superseding water right certificates in the name of Juniper Flat District Improvement Company will be issued when the Department determines it is necessary for record keeping.*
5. *The former place of use of the transferred rights shall no longer receive water under the rights.*

6. *The approved change shall be completed, and full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2026**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the Juniper Flat District Improvement Company to the Department within one year after the deadline for completion of the change and full beneficial use of the water.*

Dated in Salem, Oregon on **MAY 13 2025**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
IVAN GALL, DIRECTOR
Oregon Water Resources Department

This Preliminary Determination was prepared by Arla Davis. If you have any questions about the information in this document, you may reach me at 503-979-3129 or arla.l.davis@water.oregon.gov

Protests

Under the provisions of ORS 540.520(6) & (7) and OAR 690-380-4030, within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later, any person may file, jointly or severally, a protest expressing opposition of approval of the transfer application and disagreement with this Preliminary Determination or a standing statement in support of this Preliminary Determination. If this Preliminary Determination determines that a change in point of diversion or appropriation would result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050. Protests and standing statements must be received by the Water Resources Department within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later.

Protests must be in writing and received in hard copy form with the appropriate statutory protest filing fee; protests cannot be filed by electronic mail. [OAR 690-002-0025(3) and 690-380-0100(9)]. The protest must include the following:

- The person's name, address, and telephone number;
- All reasonably ascertainable issues and all reasonably available arguments supporting the person's position by the close of the protest period. Failure to raise a reasonably ascertainable issue in a protest or failure to provide sufficient specificity to afford the Department an opportunity to respond to the issue may preclude consideration of the issue during the hearing;
- If you are the applicant, a protest fee of \$480 required by ORS 536.050; and

- If you are not the applicant, a protest fee of \$950 required by ORS 536.050 and proof of service of the protest upon the applicant.

Requests for Standing

Under the provisions of OAR 690-380-4030(5), the Department shall provide to persons who have filed standing statements as defined under OAR 690-380-0100(11) notice of any differences between the Department's Preliminary Determination and the Final Order, notice of a hearing on the application under OAR 137-003-0535, and an opportunity to request limited party status or party status in the hearing.

Requests for standing must be received in the Water Resources Department no later than 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
- A statement that the requester supports the preliminary determination as issued.

After the protest period has ended, the Director will either issue a Final Order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been filed under OAR 690-380-4030. In accordance with OAR 690-380-4200, notice and conduct of the hearing shall:

- Be under the applicable provisions of ORS 183.310 to 183.550, pertaining to contested cases, and the hearing shall be held in the area where the rights are located unless all parties stipulate otherwise; and
- If a protest has asserted that a water right to be transferred has been forfeited through non-use, include the notice and procedures described in OAR 690-017-0500 to 690-017-0900.

If after hearing the Department issues a proposed Final Order finding that a change in point of diversion or appropriation will result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050 within 15 days of receipt of the proposed order. Notwithstanding 690-002-0175, if the applicant files a notification of intent to pursue approval of the transfer under 690-380-5030 to 690-380-5050, the deadline for filing exceptions to the proposed order shall be 30 days after the Department provides notice to the parties that the transfer does not meet the requirements of 690-380-5030 to 690-380-5050.

If you do not request a hearing within 30 days after the close of the protest period, or if you withdraw a request for a hearing, notify the Department or the administrative law judge that you will not appear, or fail to appear at a scheduled hearing, the Director may issue a final order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

You may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions, or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 690-137-0555, an agency representative may represent partnerships, corporations, associations, governmental subdivisions or public, or private organizations if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active-duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act. 50 U.S.C. App. §§501-597b. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Will Davidson at 503-507-2749.

If you have questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.

Address any correspondence to: Oregon Water Resources Department, Transfer and Conservation Section, 725 Summer Street NE, Suite A, Salem, OR 97331



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

www.oregon.gov/owrd

May 13, 2025

VIA CERTIFIED MAIL AND E-MAIL

CRABTREE ENDERSBY RANCH LLC

PO BOX 226

MAUPIN, OR 97037

SUBJECT: Water Right Transfer Application T-14283

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-14283. 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 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 Department's notice.

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.

Please don't hesitate to contact me at 503-979-3129 or arla.l.davis@water.oregon.gov, if I may be of assistance.

Sincerely,

Arla L Davis

Arla L Davis

Transfer Specialist

Transfer and Conservation Section

cc: Transfer Application file T-14283
Robert L. Wood, District 3 Watermaster (*via e-mail*)
Juniper Flat District Improvement Co. (*via e-mail*)

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