

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

In the Matter of Transfer Application                    )     FINAL ORDER APPROVING AN  
T-9966, Union County                                    )     ADDITIONAL POINT OF DIVERSION

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**

KIM AND ANITA METLEN  
65208 HULL LANE  
IMBLER OR 97841

**Findings of Fact**

1. On July 5, 2005, Kim and Anita Metlen filed a transfer application to add a point of diversion under Certificate 58087. The Department assigned the application number T-9966.
2. The right to be transferred is as follows:

**Certificate:** 58087 in the name of WILLIAM AND FLORENCE HOWELL (perfected under Permit S-45048)

**Use:** IRRIGATION of 87.90 ACRES

**Priority Date:** MARCH 21, 1980

**Rate:** 2.2 CUBIC FEET PER SECOND

**Limit/Duty:** ONE-FORTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

**Source:** GRANDE RONDE RIVER, tributary to SNAKE RIVER

**Authorized Point of Diversion:**

| Twp | Rng  | Mer | Sec | Q-Q   | Survey Coordinates  |
|-----|------|-----|-----|-------|---|
| 1 S | 39 E | WM  | 29  | NW SE | 1850 FEET NORTH & 1630 FEET WEST FROM SE CORNER, SECTION 29 |

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either 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.

**Authorized Place of Use:**

| IRRIGATION |      |     |     |       |       |
|------------|------|-----|-----|-------|-------|
| Twp        | Rng  | Mer | Sec | Q-Q   | Acres |
| 1 S        | 39 E | WM  | 29  | NE NE | 16.10 |
| 1 S        | 39 E | WM  | 29  | NW NE | 19.30 |
| 1 S        | 39 E | WM  | 29  | SW NE | 36.60 |
| 1 S        | 39 E | WM  | 29  | SE NE | 15.90 |

3. Application T-9966 proposes add a point of diversion approximately 0.8 mile downstream, located:

| Twp | Rng  | Mer | Sec | Q-Q   | Survey Coordinates  |
|-----|------|-----|-----|-------|---|
| 1 S | 39 E | WM  | 29  | NE NE | 4640 FEET NORTH & 1192 FEET WEST FROM SE CORNER, SECTION 29 |

4. Notice of the application for transfer was published on July 19, 2005, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice
5. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
7. The proposed change would not result in enlargement of the right.
8. The proposed change would not result in injury to other water rights.
9. On April 28, 2006 a Preliminary Determination was issued, proposing to approve T-9966. Notice of the Preliminary Determination was published in the Department's weekly public notice on May 9, 2006 and in the LaGrande Observer newspaper on May 16, 23 and 30, 2006. No protests were received in response to the notice.

**Conclusions of Law**

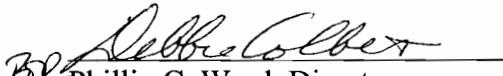
The proposed change to add a point of diversion in application T-9966 is consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

1. The change to add a point of diversion proposed in application T-9966 is approved.
2. Water right certificate 58087 is cancelled.
3. 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 58087 and any related decree.

4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2007**. 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 changes and full beneficial use of the water.
5. The quantity of water diverted at the additional point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
6. When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
7. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 11<sup>th</sup> day of July 2006.

  
Phillip C. Ward, Director

Mailing date: JUL 17 2006