

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

In the Matter of Transfer Application                 )       FINAL ORDER APPROVING A  
T-10316, Klamath County                                 )       CHANGE IN POINT OF  
                                                                                   )       APPROPRIATION

**Authority**

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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**

Daniel J. and Tammy A. Shuck  
PO BOX 864  
MERRILL OR 97633

**Findings of Fact**

**Background**

1. On February 8, 2007, Daniel J. and Tammy A. Shuck filed an application to transfer the point of appropriation under Certificate 74895. The Department assigned the application number T-10316.

2. The right to be transferred is as follows:

**Certificate:** 74895 in the name of CHARLES V SHUCK (perfected under Permit G-5457)  
**Use:** IRRIGATION of 37.6 ACRES  
**Priority Date:** SEPTEMBER 14, 1971  
**Rate:** 0.47 CUBIC FOOT PER SECOND  
**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 3 acre-feet per acre per year  
**Source:** A WELL within the LOST RIVER BASIN

**Authorized Point of Appropriation:**

<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>Q-Q</b>	<b>Survey Coordinates</b>
40 S	11 E	WM	32	SW NE	40 FEET NORTH AND 600 FEET EAST FROM THE C1/4 CORNER OF SECTION 32

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
40 S	11 E	WM	32	NE SE	30.8
40 S	11 E	WM	33	NW SW	6.8

3. Application T-10316 proposes to move the authorized point of appropriation approximately ½ mile east from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
40 S	11 E	WM	33	SW NW	1400 FEET SOUTH AND 840 FEET EAST FROM THE NW CORNER OF SECTION 33

4. Notice of the application for transfer was published on February 20, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
5. On April 20, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10316 to the applicants. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
6. On June 12, 2007, the Department issued a Preliminary Determination proposing to approve Transfer T-10316 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on June 19, 2007, and in the Herald newspaper on June 26 and July 3 and 10, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. 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.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

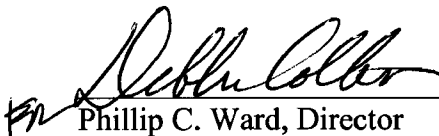
The change in the point of appropriation proposed in application T-10316 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

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

1. The change in point of appropriation proposed in application T-10316 is approved.

2. Water right certificate 74895 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 74895.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
6. When required by the Department, the water user shall install, maintain and operate an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
7. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. 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.
11. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 17<sup>th</sup> day of August 2007.

  
Phillip C. Ward, Director

Mailing date: AUG 22 2007