

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

In the Matter of Transfer Application	)	SUPERSEDING FINAL ORDER
T-10185, Deschutes County	)	APPROVING A CHANGE IN POINT OF
	)	APPROPRIATION AND PLACE OF
	)	USE AND CORRECTING
	)	SCRIVENER'S ERRORS IN A
	)	PREVIOUS ORDER

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

JAYMIE L. KACZMAREK
PO BOX 471
BEND OR 97709

Findings of Fact

1. On June 2, 2006, Jaymie L. Kaczmarek filed an application to transfer the place of use and point of appropriation under Certificate 81534. The Department assigned the application number T-10185.
2. Certificate 81534 was superseded by Certificate 81675. On July 11, 2006, Certificate 81675 was superseded by Certificate 82029.
3. The portion of the right to be transferred is as follows:

Certificate: 82029 in the name of JAYMIE L. KACZMAREK (perfected under Permit G-12705)

Use: IRRIGATION of 2.0 ACRES

Priority Date: AUGUST 31, 1992

Rate: 0.025 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3 acre-feet per acre per year

Source: WELL 2 in the DESCHUTES RIVER BASIN

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.

Period of Use: April 1 to November 1

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
16 S	11 E	WM	4	SW SW	1390 FEET SOUTH AND 1020 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 4

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	4	NE SW	2.0

4. Transfer Application T-10185 proposes to move the authorized point of appropriation approximately one mile in a northerly direction from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
15 S	11 E	WM	34	SW NW	2250 FEET SOUTH AND 860 FEET EAST FROM THE NW CORNER OF SECTION 34

5. Transfer Application T-10185 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	11 E	WM	34	SW NW	2.0

6. This application is being processed concurrently with T-10183, T-10184 and T-10186, which also propose changes to Certificate 82029.
7. Notice of the application for transfer was published on June 13, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
8. On November 30, 2006, the Department issued a preliminary determination proposing to approve Transfer T-10185 and mailed a copy to the applicant. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on December 5, 2006, and in The Bulletin newspaper on December 16, 23 and 30, 2006 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
9. On January 31, 2007 the Department issued a Final Order for the transfer, recorded at Special Order Volume 71, Pages 115-117. Following issuance of the order the Department recognized scrivener's errors in the description of the location of the proposed place of use and point of appropriation.
10. This order is issued to correct the scrivener's errors and to supersede the previous order recorded at Special Order Volume 71, Pages 115-117.
11. Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.

12. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.

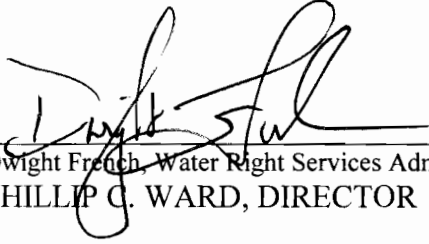
Conclusions of Law

The changes in place of use and point of appropriation proposed in Transfer Application T-10185 are consistent with the requirements of ORS 537.705, 540.505 to 540.580, and OAR 690-380-5000 and the scrivener's error in Special Order Volume 71, Pages 115-117 should be corrected in the record.

Now, therefore, it is ORDERED:

1. The order entered at Special Order Volume 71, Pages 115-117 is withdrawn and of no further force and effect, and is superseded by this order.
2. The right to 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 82029 and any related decree.
3. Certificate 82029 is cancelled. Certificate 83369 describes that portion of the right not involved in this transfer nor involved in T-10183, T-10184 and T-10186.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. 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.
6. 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.
7. The former place of use of the transferred water shall no longer receive water as part of this right.
8. Prior to diverting water at the new point of appropriation, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. 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.
9. When satisfactory proof of the completed changes is received, a new certificate confirming the portion of the right transferred will be issued.

Dated at Salem, Oregon this 28 day of February, 2012.

A handwritten signature in black ink, appearing to read "Dwight French", written over a horizontal line.

Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing date: FEB 29 2012