# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-11652, Umatilla County	)	CHANGE IN POINT OF
	)	APPROPRIATION AND AN
	)	ADDITIONAL 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** 

JAMES VANDERSLOOT PO BOX 137 MILTON-FREEWATER, OR 97862

# **Findings of Fact**

- 1. On August 15, 2013, JAMES VANDERSLOOT filed an application to change the point of appropriation under Certificate 28605, and add a point of appropriation under Certificate 40813. The Department assigned the application number T-11652.
- 2. Notice of the application for transfer was published on August 27, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On January 2, 2014, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11652 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 2, 2014, 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.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may 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.

- 4. On February 27, 2014, the Department issued a Preliminary Determination proposing to approve Transfer T-11652 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 March 4, 2014, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
- 5. The portion of the first right to be transferred is as follows:

Certificate: 28605 in the name of HAROLD STILLER (perfected under Permit G-1114)

Use: IRRIGATION of 19.2 ACRES

Priority Date: AUGUST 25, 1958

Rate: 0.157 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured

under any other right existing for the same lands, shall be limited to

ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation

season of each year.

Source: A WELL within the COLUMBIA RIVER BASIN

## **Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	35 E	WM	25	SE NE	985 FEET SOUTH AND 25 FEET WEST FROM THE NE CORNER OF SENE OF SECTION 25

### **Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres		
6 N	36 E	WM	30	SW NW	19.2		

6. Transfer Application T-11652 proposes to change the authorized point of appropriation approximately 691 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Q-Q Measured Distances	
6 N	36 E	WM	30	SW NW	WELL 3: 650 FEET SOUTH AND 610 FEET EAST FROM THE NE CORNER OF THE SE NE OF SECTION 25	

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

Certificate: 40813 in the name of HAROLD STILLER (perfected under Permit G-4080)

Use: SUPPLEMENTAL IRRIGATION of 19.2 ACRES

Priority Date: APRIL 10, 1968

Rate: 0.221 CUBIC FOOT PER SECOND

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured

under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation

limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein and shall be further limited to appropriation of water only to the extent that it does not impair or substantially interfere with existing surface water rights of others, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source:

A WELL within the WALLA WALLA RIVER BASIN

## **Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Q Measured Distances	
6 N	36 E	WM	30	SW NW	310 FEET NORTH AND 380 FEET EAST FROM THE W1/4 CORNER OF SECTION 30	

### **Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres		
6 N	36 E	WM	30	SW NW	19.2		

8. Transfer Application T-11652 proposes an additional point of appropriation approximately 362 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	36 E	WM	30	SW NW	WELL 3: 650 FEET SOUTH AND 610 FEET EAST FROM THE NE CORNER OF THE SE NE OF SECTION 25

# Transfer Review Criteria (OAR 690-380-4010)

- 9. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- 10. A pump, pipeline, and sprinkler 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-11652.
- 11. The proposed change would not result in enlargement of the rights.
- 12. The proposed change would not result in injury to other water rights.
- 13. All other application requirements are met.

#### Conclusions of Law

The change in point of appropriation and additional point of appropriation proposed in Transfer Application T-11652 are 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 and additional point of appropriation proposed in Transfer Application T-11652 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 28605 and 40813 and any related decree.
- 3. Water right Certificates 28605 and 40813 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.
- 4. The quantity of water diverted at the new and additional point of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.
- 5. The proposed well shall be constructed so that it only develops water from the shallow alluvial aquifer overlaying the basalts.
- 6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
- 7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2015**. 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.
- 8. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this day of April, 201	4.
Durish Ford	
Dwight French Water Right Services Administrator, for	
PHILLIP C. WARD, DIRECTOR	

Mailing date: \_\_\_\_\_