

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

In the Matter of Transfer Application    )    FINAL ORDER APPROVING  
T-12994, Wallowa County                )    AN ADDITIONAL POINT OF DIVERSION  
  )    TO REFLECT HISTORIC USE

**Authority**

ORS 540.532 establishes the process in which a water right holder may submit a request for a change in point of diversion to reflect historical use under an existing water right. OAR Chapter 690-380-2120 implements the statute and provides the Department's procedures and criteria for evaluating historic point of diversion/appropriation transfer applications.

**Applicant**

RAY CAMERON  
78475 CAUDLE LANE  
LOSTINE, OR 97857

**Findings of Fact**

1. On July 27, 2018, Ray Cameron filed a transfer application for authorization of an historic additional point of diversion under Certificate 3091. The Department assigned the application number T-12994.
2. Notice of the application for transfer was published on August 7, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 27, 2018, the Department mailed a copy of the draft order proposing to approve Transfer Application T-12994 to the applicant.

This is a final 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 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. The right to be transferred is as follows:

**Certificate:** 3091 in the name of S.L. MAGILL (confirmed by Wallowa River Decree)  
**Use:** IRRIGATION OF 2.7 ACRES, DOMESTIC AND STOCK USE  
**Priority Date:** 1891  
**Limit/Duty:** The amount of water to which such right is entitled and hereby confirmed for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1.5 acre feet per acre during any period of 30 days prior to July 31<sup>st</sup> of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season.  
**Source:** SOUTH FORK OF WALLOWA RIVER (AKA: LOSTINE RIVER), tributary to the WALLOWA RIVER

**Authorized Place of Use:**

IRRIGATION, DOMESTIC AND STOCK TRACT NO. 1					
Twp	Rng	Mer	Sec	Q-Q	Acres
1S	43E	WM	10	SW SW	2.7

5. Certificate 3091 does not describe the location of the point of diversion, however information is available from the Wallowa River Decree and the local Watermaster's office indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Ditch Name
1 S	43 E	WM	15	SE SW	POLLEY ALLEN DITCH

6. Transfer Application T-12994 proposes an additional point of diversion approximately 6200 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	10	SW SW	RIVER PUMP - 1020 FEET NORTH AND 429 FEET EAST FROM THE SW CORNER OF SECTION 10

7. The Oregon Department of Fish and Wildlife has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is currently equipped with an appropriate fish screen.

**Transfer Review Criteria (ORS 540.532 and OAR 690-380-2120)**

8. Pursuant to OAR 690-380-2120(2)(a), evidence has been submitted that the actual, current point of diversion for the water right in question, as described in Finding No. 4, has been in use for more than 10 years.
9. Pursuant to OAR 690-380-2120(2)(c), the Watermaster provided a statement that to his knowledge there has been no complaint of injury due to the use of water at the actual, current additional point of diversion, prior to the transfer request.

10. Pursuant to OAR 690-380-2120(3), the Department provided the applicant a list of the affected water rights and a copy of the notice to be provided to each affected water right holder. The applicant has provided written proof of service of notice of the proposed transfer on all affected water right holders.
11. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence 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 are 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 proposed additional point of diversion to reflect historical use in application T-12994 is consistent with the requirements of ORS 540.532 and OAR-690-380-2120.

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

1. The additional point of diversion proposed in T-12994 is approved and effective immediately.
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 Certificate 3091 and any related decree.
3. Water Right Certificate 3091 is cancelled. Certificate 94347 will be issued to describe the additional point of diversion for the portion of the right included in T-12994. Certificate 94348 shall be issued to describe the portion of Certificate 3091 not modified by this order. Together, the new Certificates shall supersede Certificate 3091.
4. The quantity of water diverted at the new 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.
5. Water use measurement conditions:
  - a. Before water use may begin, the water user shall install and maintain a totalizing flow meter or other suitable device for measuring and recording the quantity of water diverted at the historic (new) point of diversion. 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.
  - b. The water user shall maintain the meter or measuring device in good working order.

- c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device are located within a private structure, the Watermaster shall request access upon reasonable notice.
6. The water user shall operate and maintain the current fish screen at the new additional point of diversion. If Oregon Department of Fish and Wildlife (ODFW) determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

Dated at Salem, Oregon this MAY 16 2019;

  
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Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M BYLER, DIRECTOR  
Oregon Water Resources Department

Mailing date: MAY 17 2019