

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
21 S	46 E	WM	27	SE SW	4	1210 FEET SOUTH AND 960 FEET EAST FROM THE NW CORNER OF LOT 4, (SE SW OF SECTION 27)

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
21 S	46 E	WM	34	SE NW	2	2.4

3. Transfer Application T-10847 proposes to move the authorized point of diversion approximately 1.25 miles upstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
22 S	46 E	WM	3	NW NW	4	1600 FEET EAST AND 820 FEET SOUTH FROM THE NW CORNER OF SECTION 3

4. Application T-10847 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
22S	46E	WM	3	NW NW	4	2.4

5. Notice of the application for transfer was published on April 28, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. On August 6, 2009 a letter was sent to the applicant and Certified Water Right Examiner, requesting additional information about use of the right, the pumping and delivery system and clarification of the Government Lot within which the water right is used.
7. On September 14, 2009, additional information was supplied by Stewart Edwards, CWRE.
8. On October 19, 2009, the Department mailed to the applicants a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10847. The draft Preliminary Determination cover letter set forth a deadline of November 23, 2009, for the applicants to respond. On October 29, 2009, 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.
9. On October 30, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10847 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 November 3, 2009, and in the Idaho Press-Tribune newspaper on November 9, 16 and 23, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

10. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

Transfer Review Criteria [OAR 690-380-4010(2)]

11. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record 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 were present within the five-year period prior to submittal of Transfer Application T-10847.
13. The proposed changes would not result in enlargement of the right.
14. The proposed changes would not result in injury to other water rights.

Conclusions of Law

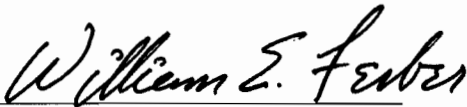
The change in point of diversion and change in place of use proposed in Transfer Application T-10847 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in point of diversion and change in place of use proposed in application T-10847 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 Certificate 42515 and any related decree.
3. Water right certificate 42515 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.
5. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
6. The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.

7. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
8. The former place of use of the transferred right shall no longer receive water under the right.
9. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. 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.
10. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 24th day of December 2009.



By Phillip C. Ward, Director

JAN 04 2010

Mailing date: _____