

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

In the Matter of Transfer Application                    )     FINAL ORDER APPROVING AN  
T-9847, Umatilla County                                    )     ADDITIONAL POINT OF  
  )     APPROPRIATION AND PARTIAL  
  )     CANCELLATION OF WATER RIGHT

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**

Kenny Harrison  
2014 Mill Creek Road  
Walla Walla, WA 99362

**Findings of Fact**

1. On December 27, 2004 and January 7, 2005, Kenny Harrison filed a transfer application to add an additional point of appropriation under Certificate 22865. The Department assigned the application number T-9847.
2. On June 27, 2005, Kenny Harrison submitted an affidavit for the partial cancellation of a water right certificate for 1.0 acre and an amended map to illustrate the acreage involved in the transfer.
3. The right to be transferred is as follows:  
**Certificate:** 22865 in the name of P.S. Gibbons, Jr. (perfected under Permit U-365)  
**Use:** Irrigation  
**Priority Date:** November 28, 1950  
**Quantity:** 0.28 cfs  
**Rate/Duty:** 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre per year  
**Acres:** 22.0  
**Source:** A well within the Umatilla River Basin

**Authorized Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
5	N	35	E	W.M.	3	SE NW	Not specified on certificate

This is a final order in other than 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:**

Township		Range		Meridian	Sec	¼ ¼	Acres
5	N	35	E	W.M.	3	SE NW	22.0
<p>Land on which water is to be used is part of that described as follows:                      Beg. at a point on the N. &amp; S. center line of the NW¼ of Sec. 3, T.5N., R. 35E., 1650 ft. S. of the NW corner of the NE¼ of the said NW¼, running thence S. along the N. &amp; S. center line of said NW¼, 817 ft. thence N 89°03'E. 1320 ft., more or less, to the N. &amp; S. center line of said Sec. 3, thence N. along the N. &amp; S. center line of said Sec. 3 to the SE corner of that tract of land conveyed to John E. Daugherty by deed recorded in Book 125, Page 267 of the Deed Records of Umatilla County, Oregon, thence W. along the S. line of said tract to the SE corner of that tract of land conveyed to Ben Cochran by deed recorded in Book 181, Page 425 of the said deed records, thence W. along the S. line the last mentioned tract to the point of beginning, all being E. of the Willamette Meridian.</p>							

4. Application T-9847 proposes to add a point of appropriation approximately 300 feet west from the existing point of appropriation in the Umatilla Basin to:

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
5	N	35	E	W.M.	3	SE NW	1770 feet South and 1625 feet East from the NW corner, Section 3

5. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
6. 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.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

**Partial Cancellation of a Water Right**

10. On June 27, 2005, an affidavit was received from Kenny Harrison, owner the land described below, and the water right appurtenant to it. A portion of the water right has been abandoned and is requested to be cancelled. The portion is described by certificate 22865, State Record of Water Right Certificates. The date of priority is November 28, 1950. The water use was for irrigation of 1.0 acre from a well, a tributary of the Walla Walla Basin. The amount used was 0.01 cubic foot per second. The abandoned portion is located as follows:

Township		Range		Meridian	Sec	¼ ¼	Acres
5	N	35	E	W.M.	3	SE NW	1.0


**Conclusions of Law**

The additional point of appropriation proposed in application T-9847 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000. The abandoned portion of the right shall be cancelled.

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

1. The additional point of appropriation proposed in application T-9847 is approved.
2. Water right certificate 22865 is cancelled.
3. The portion of the right described in Finding of Fact #6 has been cancelled at request of the water right holder, and is no longer part of this water right.
4. 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 22865.
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2007**. 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 change and full beneficial use of the water.
7. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
8. When required by the Department, 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 change is received, a new certificate confirming the portion of the right transferred will be issued.

Dated at Salem, Oregon this 28<sup>th</sup> day of February, 2006.

  
FOR Phillip C. Ward, Director

Mailing date: MAR 09 2006