

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

In the Matter of Transfer Application                    )     FINAL ORDER  
T-10958, Lane County                                    )     APPROVING A CHANGE IN 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**

Seneca Sawmill Company  
Attn Monica Jelden  
P.O. Box 851  
Eugene, Oregon 97440

**Findings of Fact**

**Background**

1. On September 25, 2009, Seneca Sawmill Company filed an application to change the point of appropriation under Certificate 34373. The Department assigned the application number T-10958.

2. The right to be transferred is as follows:

- Certificate:** 34373 in the name of SENECA SAWMILL CO. (perfected under Permit G-1923)
- Use:** MAINTENANCE OF LOG POND AND FIRE PROTECTION
- Priority Date:** AUGUST 8, 1961
- Rate:** 0.45 CUBIC FOOT PER SECOND
- Source:** A WELL, within the WILLAMETTE RIVER BASIN

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.

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	4 W	WM	4	SW SE	350 FEET SOUTH AND 30 FEET EAST FROM THE NE CORNER OF THE SE¼ SW¼ OF SECTION 4

**Authorized Place of Use:**

LOG POND MAINTENANCE AND FIRE PROTECTION					
Twp	Rng	Mer	Sec	Q-Q	GLot
17 S	4 W	WM	4	SE SW	
17 S	4 W	WM	9	NW NE	1
17 S	4 W	WM	9	NE NW	

- Transfer Application T-10958 proposes to move the authorized point of appropriation approximately 50 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	4 W	WM	4	SW SE	390 FEET SOUTH AND 55 FEET EAST FROM THE NE CORNER OF THE SE¼ SW¼ OF SECTION 4

- Notice of the application for transfer was published on October 6, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On October 8, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10958 to the applicant. The cover letter for the draft Preliminary Determination set forth a deadline of November 9, 2009, 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.
- On November 16, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10958 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 November 24, 2009 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

- 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.
- 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-10958.
- The proposed change would not result in enlargement of the right.

10. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

The change in point of appropriation proposed in Transfer Application T-10958 is 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 proposed in Transfer Application T-10958 is 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 34373 and any related decree.
3. Water right certificate 34373 is cancelled.
4. 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.
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. The Director may require the water user to install a totalizing flow meter or other suitable measuring devices at each point of appropriation. If the Director notifies the water user to install totalizing flow meters or other measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices.
7. The approved change 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 change and full beneficial use of the water.
8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 29<sup>th</sup> day of December 2009.

*William E. Ferber*  
Phillip C. Ward, Director

Mailing Date: JAN 04 2010