

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

In the Matter of Transfer Application)
T-11988, Lake County)
)
) **FINAL ORDER APPROVING OF A
CHANGE IN POINTS OF
APPROPRIATION AND A CHANGE IN
PLACE OF USE**

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

BECKY MILES
38181 GILKEY RD
SCIO, OR 97374

Findings of Fact

1. On February 24, 2015, BECKY MILES filed an application to change the points of appropriation and to change the place of use under Certificate 89337. The Department assigned the application number T-11988.
2. Notice of the application for transfer was published on March 3, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 17, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11988 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 15, 2016, 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.
4. On May 4, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-11988 and mailed a copy to the applicant. Additionally, notice of the

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.

Preliminary Determination for the transfer application was published in the Department's weekly notice on May 9, 2017, and in the Lake County Examiner on May 10 and 17, 2017 pursuant to ORS 540.520 and OAR 690-380-4020. No protest was filed in response to the notice.

5. The right to be transferred is as follows:

Certificate: 89337 in the name of GEORGE SCHMIDT (perfected under Permit G-9233)
Use: IRRIGATION of 129.6 ACRES
Priority Date: FEBRUARY 23, 1981
Rate: 1.33 CUBIC FEET PER SECOND, if available at the original point of appropriation

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	18 E	WM	8	NW SW	1380 FEET NORTH AND 1270 FEET EAST FROM THE SW CORNER OF SECTION 8

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second, 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 FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	18 E	WM	8	NW SE	LAKE 50650 - 1347 FEET NORTH AND 2613 FEET WEST FROM THE SE CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	18 E	WM	8	NE SW	31.8
26 S	18 E	WM	8	SE SW	31.8
26 S	18 E	WM	8	NW SE	33.0
26 S	18 E	WM	8	SW SE	33.0
Total					129.6

6. Transfer Application T-11988 proposes to move the authorized point of appropriation approximately 17 miles for proposed Well 4 and 12.8 miles for proposed Well 5 from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	10	SW NE	WELL 4 (LAKE 4550) - 2175 FEET SOUTH AND 2540 FEET WEST FROM THE NE CORNER OF SECTION 10
27 S	16 E	WM	27	NE NE	WELL 5 - 660 FEET SOUTH AND 660 FEET WEST FROM THE NE CORNER OF SECTION 27

7. Transfer Application T-11988 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	10	NW NE	6.7
27 S	15 E	WM	10	SW NE	39.0
27 S	15 E	WM	10	SE NE	1.1
27 S	15 E	WM	10	NE NW	3.3
27 S	15 E	WM	10	SE NW	26.8
27 S	15 E	WM	10	NE SW	8.1
27 S	15 E	WM	10	NW SE	15.0
27 S	16 E	WM	27	NE NE	29.6
Total					129.6

Transfer Review Criteria (OAR 690-380-4010)

- 8. 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.
- 9. 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-11988.
- 10. The proposed change would not result in enlargement of the right.
- 11. The proposed change would not result in injury to other water rights.
- 12. All other application requirements are met.

Conclusions of Law

The change in point of appropriation and change in place of use proposed in Transfer Application T-11988 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 change in place of use proposed in Transfer Application T-11988 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 89337 and any related decree.
- 3. Water right Certificate 89337 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 points of appropriation.

5. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install totalizing flow meters, or, with prior approval of the Director, another suitable measuring device at each new and existing points of appropriation.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
7. The former place of use of the transferred right shall no longer receive water under the right.
8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. 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.
9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 22 day of June, 2017.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

JUN 28 2017

Mailing date: _____