

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
7 S	1 W	WM	7	SE NW	51	860 FEET NORTH AND 620 FEET EAST FROM THE SW CORNER OF DLC 51

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
7 S	1 W	WM	7	SW NE	51	16.4
7 S	1 W	WM	7	SE NE	51	3.3
7 S	1 W	WM	7	NE SE	50	0.7
7 S	1 W	WM	7	NW SE	50	3.8

4. Transfer Application T-10863 proposes an additional point of appropriation approximately 1243 feet northeast from the existing point of appropriation at the following location:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
7S	1W	WM	7	SW NE	51	1705 FEET NORTH AND 1532 FEET EAST FROM THE SW CORNER OF DLC 51

5. The second right to be transferred is as follows:

Certificate: 48899 in the name of FRED SCHARER (perfected under Permit G-7422)

Use: IRRIGATION of 25.6 ACRES

Priority Date: APRIL 11, 1977

Rate: 0.32 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year

Source: A WELL in the PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
7 S	1 W	WM	7	SE NW	51	860 FEET NORTH AND 620 FEET EAST FROM THE SW CORNER OF DLC 51

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
7 S	1 W	WM	7	NE NE	51	1.2
7 S	1 W	WM	7	NW NE	51	6.0
7 S	1 W	WM	7	SW NE	51	15.4
7 S	1 W	WM	7	SE NE	51	2.6

6. Transfer Application T-10863 proposes an additional point of appropriation approximately 1243 feet northeast from the existing point of appropriation at the following location:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
7S	1W	WM	7	SW NE	51	1705 FEET NORTH AND 1532 FEET EAST FROM THE SW CORNER OF DLC 51

7. Notice of the application for transfer was published on May 19, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
8. On September 11, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10863 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of October 12, 2009, for the applicants to respond. 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 December 14, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10863 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 December 22, 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)

10. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-10863.
12. The proposed change would not result in enlargement of the rights.
13. Because the proposed additional point of appropriation is approximately ¼ mile closer to existing wells drawing from the same set of confined aquifers, the proposed change could result in increased, though not substantial, interference with these existing groundwater rights that would not have occurred without the proposed change. Unless the transfer is conditioned to avoid the increase in interference, some degree of injury to those rights could result.
14. On August 21, 2009, Greg and Stan Herr indicated by email that they agree to condition the rights as below in order to avoid injury to other rights.
15. The proposed change, as conditioned below, would not result in injury to other rights.

Conclusions of Law

The additional point of appropriation proposed in Transfer Application T-10863, as conditioned below, appears to be 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 additional point of appropriation proposed in application T-10863 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 Certificates 48898, 48899 and any related decree.
3. Water right certificates 48898 and 48899 are cancelled. A new certificate will be issued describing that portion of certificate 48898 not affected by this transfer.
4. 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.
5. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point 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 proposed change shall be conditioned as follows so as to avoid injury to other rights:
 - a) Use of water from the additional well, as allowed herein, shall be controlled or shut off if the well causes hydraulic interference in any neighboring well whose completion date predates the effective date on this transfer such that the neighboring well user is unable to obtain the ground water to which they are legally entitled.
 - b) The water user shall install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.
 - c) The water user shall be responsible for complying with each of the following requirements for measuring water levels in the additional well:
 - i) Use of water from a new well shall not begin until an initial static water level in the well has been measured and submitted to the Department.
 - ii) In addition to the measurement required in subsection (i) of this section, a water level measurement shall be made each year during the period March 1 through March 31.

- iii) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the water user.
 - iv) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. A list of standard methods of procedure and suitable equipment shall be available from the Department.
 - v) The well shall be equipped with an access port and dedicated measuring tube that comply with the standards set forth in OAR 690-215-0060.
 - vi) The water user shall submit a record of the measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certificate as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited in section (7a) are evidenced by the well measurement required in section (7c).
8. 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.
9. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 28th day of January 2010.


Phillip C. Ward, Director

Mailing date: JAN 29 2010