

STATE OF OREGON

COUNTY OF CLACKAMAS

ORDER APPROVING A CHANGE IN CHARACTER OF USE,
PLACE OF USE AND POINT OF APPROPRIATION

Pursuant to ORS 537.705, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 7058 submitted by

BEACON HOMES, INC.
KURT DALBEY
1865 NW 169TH PLACE
BEAVERTON, OREGON 97706.

The FIRST right to be modified, as evidenced by Certificate 38514, was perfected under Permit G-4231 with a date of priority of JULY 16, 1968. The right allows the use of A WELL, a tributary of the SAUM CREEK (TUALATIN RIVER) BASIN, for IRRIGATION OF 60.4 ACRES. The right is limited to 0.31 cubic foot per second (CFS), if available at the original well; NW¼ NW¼, SECTION 31, T 2 S, R 1 E, W.M.; 1240 FEET SOUTH AND 790 FEET EAST FROM THE NW CORNER, SECTION 31, or its equivalent in case of rotation, measured at the well.

This is an order in other than a 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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

The SECOND right to be modified, as evidenced by Certificate 45238, was perfected under Permit G-5705 with a date of priority of SEPTEMBER 8, 1972. The right allows the use of WILHELM FARMS WELL 2, a tributary of the SAUM CREEK (TUALATIN RIVER) BASIN, for IRRIGATION OF 8.4 ACRES AND SUPPLEMENTAL IRRIGATION OF 60.4 ACRES. The right is limited to 0.13 CFS, if available at the original well; NW¼ NW¼, SECTION 31, T 2 S, R 1 E, W.M.; 1240 FEET SOUTH AND 790 FEET EAST FROM THE NW CORNER, SECTION 31, or its equivalent in case of rotation, measured at the well.

The amount of water used for irrigation under these rights is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2½ ACRE-FEET (AF) for each acre irrigated during the irrigation season of each year.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is as follows:

	<u>PERMIT G-4231</u>	<u>PERMIT G-5705</u>	
	<u>PRIMARY</u>	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
NW¼ NW¼	20.1 ACRES	8.4 ACRES	20.1 ACRES
SW¼ NW¼	40.3 ACRES		40.3 ACRES
SECTION 31			
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.			

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described.

The applicant proposes to change the character of use of a portion of the rights from irrigation to NURSERY USE. The applicant proposes to consolidate portions of the water right so that the same quantity of water is appropriated for irrigation of fewer acres. The applicant proposes to change the point of appropriation to the following points of appropriation.

RECEIVING LANDOWNER: CLAUDIA ROHR
 ANDREWS & ROHR
 22727 SW STAFFORD ROAD
 TUALATIN, OREGON 97062

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION of 2.0 ACRES and NURSERY OPERATIONS ON 2.1 ACRES. The right would be limited to the amount actually beneficially used and not to exceed 0.046 CFS, being 0.020 CFS FOR IRRIGATION AND 0.026 CFS FOR NURSERY OPERATIONS, the total diversion would not exceed 15.49 AF, BEING 4.01 AF FOR IRRIGATION, provided the total quantity diverted for irrigation from both rights does not exceed 5.00 AF, AND 11.48 AF FOR NURSERY OPERATIONS.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 2.0 ACRES AND SUPPLEMENTAL NURSERY OPERATIONS ON 2.1 ACRES. The right would be limited to the amount actually beneficially used and not to exceed 0.012 CFS, being 0.005 CFS for SUPPLEMENTAL IRRIGATION and 0.007 CFS for SUPPLEMENTAL NURSERY OPERATIONS, the total diversion would not exceed 4.00 AF, BEING 1.00 AF FOR SUPPLEMENTAL IRRIGATION, provided the total quantity diverted for irrigation from both rights does not exceed 5.0 AF, AND 3.01 AF FOR SUPPLEMENTAL NURSERY OPERATIONS.

The proposed point of appropriation is in the:

SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 31, T 2 S, R 1 E, W.M.; 750 FEET NORTH AND 1170 FEET WEST FROM THE E $\frac{1}{4}$ CORNER, SECTION 31.

The proposed place of use is:

	<u>IRRIGATION</u>	<u>NURSERY OPERATIONS</u>
SW $\frac{1}{4}$ NE $\frac{1}{4}$	1.9 ACRES	1.7 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$	0.1 ACRE	0.4 ACRE
SECTION 31		
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.		

RECEIVING LANDOWNER: K. THATCHER LOEN
5205 SW SCHATZ ROAD
TUALATIN, OREGON 97062

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for NURSERY OPERATIONS ON 3.2 ACRES. The right would be limited to the amount beneficially used, not to exceed 0.035 CFS, the total diversion would not exceed 16.21 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL NURSERY OPERATIONS ON 3.2 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.009 CFS, the total diversion would not exceed 4.27 AF.

The proposed point of diversion is in the:

NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 31, T 2 S, R 1 E, W.M.; 1250 FEET SOUTH AND 640 FEET EAST FROM THE N $\frac{1}{4}$ CORNER, SECTION 31.

The proposed place of use is:

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 3.2 ACRES
SECTION 31
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

RECEIVING LANDOWNER: JACK HARPER
5677 SW DELKER ROAD
TUALATIN, OREGON 97062

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of THREE WELLS for IRRIGATION OF 7.1 ACRES. The right would be limited to the amount actually beneficially used and not to exceed 0.045 CFS, the total diversion would not exceed 13.77 AF.

The proposed points of diversion are in the:

SE¼ SW¼, SECTION 30, T 2 S, R 1 E, W.M.; 1 - 400 FEET NORTH AND 670 FEET WEST, 2 - 200 FEET NORTH AND 430 FEET WEST, 3 - 520 FEET NORTH AND 120 WEST, ALL FROM THE S¼ CORNER, SECTION 30.

The proposed place of use is:

SE¼ SW¼ 7.1 ACRES
SECTION 30
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

RECEIVING LANDOWNER: JOHN G. ECKMANN
 5400 SCHATZ ROAD
 TUALATIN, OREGON 97062

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 1.0 ACRE. The right would be limited to the amount beneficially used and not to exceed 0.009 CFS, the total diversion would not exceed 2.50 AF, provided the total quantity diverted under both rights does not exceed 4.75 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for IRRIGATION OF 0.9 ACRE AND SUPPLEMENTAL IRRIGATION OF 1.0 ACRE. The right would be limited to the amount actually beneficially used and not to exceed 0.010 CFS, being 0.008 CFS for irrigation and 0.002 CFS for supplemental irrigation, the total diversion would not exceed 3.17 AF, being 2.52 AF for irrigation and 0.65 AF for supplemental irrigation, provided the total quantity diverted under both rights permits does not exceed 4.75 AF.

The proposed point of appropriation is in the:

SW¼ NE¼, SECTION 31, T 2 S, R 1 E, W.M.; 1060 FEET NORTH AND 200 FEET WEST FROM THE CENTER OF SECTION 31.

The proposed place of use is:

PERMIT G-4231 PRIMARY PERMIT G-5705 PRIMARY
PERMIT G-5705 SUPPLEMENTAL

SW¼ NE¼ 1.0 ACRE 0.9 ACRE
SECTION 31
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

RECEIVING LANDOWNER: RANDY AND BARBARA LOVRE
22250 SW 55TH AVENUE
TUALATIN, OREGON 97062

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 5.0 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.041 CFS, the total diversion not to exceed 12.46 AF, provided the total diversion under both rights does not exceed 12.50 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 5.0 ACRES. The right would be limited to the amount actually beneficially use, not to exceed 0.010 CFS, the total diversion not to exceed 3.06 AF, provided the total diversion under both rights does not exceed 12.50 AF.

The proposed point of appropriation is in the:

NW¼ NE¼, SECTION 31, T 2 S, R 1 E, W.M.; 300 FEET SOUTH AND 180 FEET EAST FROM THE N¼ CORNER, SECTION 31.

The proposed place of use is:

NW¼ NW¼ 5.0 ACRES
SECTION 31
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

RECEIVING LANDOWNER: PETER KUSYK
 9500 SW 125TH AVENUE
 BEAVERTON, OREGON 97005

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 4.5 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.033 CFS, the total diversion would not exceed 10.12 AF, provided the total diversion under both rights does not exceed 11.25 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 4.5 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.008 CFS, the total diversion would not exceed 2.49 AF, provided the total diversion under both rights does not exceed 11.25 AF.

The proposed point of appropriation is in the:

 SW¼ NW¼, SECTION 31, T 2 S, R 1 E, W.M.; 2420 FEET
NORTH AND 250 FEET EAST FROM THE NW CORNER, SECTION 31.

The proposed place of use is:

 SW¼ NW¼ 4.5 ACRES
 SECTION 31
 TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

RECEIVING LANDOWNER: KURT DALBEY
 1865 NW 169TH PLACE
 BEAVERTON, OREGON 97006

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 5.0 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.033 CFS, the total diversion

not to exceed 10.12 AF, provided the total diversion under both rights does not exceed 12.50 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 5.0 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.008 CFS, the total diversion not to exceed 2.49 AF, provided the total diversion under both rights does not exceed 12.50 AF.

The proposed point of appropriation is the original well.

The proposed place of use is:

NW¼ NW¼ 5.0 ACRES
SECTION 31
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

RECEIVING LANDOWNER: BEACON HOMES, INC.
 9500 SW 125TH AVENUE
 BEAVERTON, OREGON 97005
 (Subdivision lots 2, 3, 6, and 13)

LOT 6:

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 3.5 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.028 CFS, the total diversion would not exceed 8.56 AF, provided the total diversion under both rights does not exceed 8.75 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 3.5 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.007 CFS, the total diversion would not exceed 2.11 AF, provided the total diversion under both rights does not exceed 8.75 AF.

The proposed point of appropriation is in the:

NW¼ NW¼, SECTION 31, T 2 S, R 1 E, W.M.; 200 FEET SOUTH
AND 250 FEET EAST FROM THE NW CORNER, SECTION 31.

The proposed place of use is:

NW¼ NW¼ 3.5 ACRES
SECTION 31
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

LOT 2:

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 4.2 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.028 CFS, the total diversion would not exceed 8.56 AF, provided the total diversion under both rights does not exceed 10.50 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 4.2 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.007 CFS, the total diversion would not exceed 2.11 AF, provided the total diversion under both rights does not exceed 10.50 AF.

The proposed point of diversion is in the:

SW¼ NW¼, SECTION 31, T 2 S, R 1 E, W.M.; 2000 FEET
SOUTH AND 250 FEET EAST FROM THE NW CORNER, SECTION 31.

The proposed place of use is:

SW¼ NW¼ 4.2 ACRES
SECTION 31
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

LOT 3:

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 4.1 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.028 CFS, the total diversion would not exceed 8.56 AF, provided the total diversion under both rights does not exceed 10.25 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 4.1 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.007 CFS, the total diversion would not exceed 2.11 AF, provided the total diversion under both rights does not exceed 10.25 AF.

The proposed point of diversion is in the:

SW¼ NW¼, SECTION 31, T 2 S, R 1 E, W.M.; 1570 FEET SOUTH AND 250 FEET EAST FROM THE NW CORNER, SECTION 31.

The proposed place of use is:

SW¼ NW¼ 4.1 ACRES
SECTION 31
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

LOT 13:

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 3.7 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.028 CFS, the total diversion would not exceed 8.56 AF, provided the total diversion under both rights does not exceed 9.25 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL

IRRIGATION OF 3.7 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.007 CFS, the total diversion would not exceed 2.11 AF, provided the total diversion under both rights does not exceed 9.25 AF.

The proposed place of use is:

SW¼ NW¼ 3.7 ACRES
SECTION 31
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

THESE CHANGES TO EXISTING WATER RIGHTS MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The proposed changes shall be completed on or before October 1, 2004.
2. The quantity of water diverted at the new points of appropriation (wells) shall not exceed the quantity of water lawfully available from the original point of appropriation, located in the NW¼ NW¼, SECTION 31, T 2 S, R 1 E, W.M.; 1240 FEET SOUTH AND 790 FEET EAST FROM THE NW CORNER, SECTION 31, or its equivalent in case of rotation, measured at the well.
3. Prior to using water, the water users shall install and maintain lockable headgates or valves and in-line flow meters, weirs, or other suitable devices for controlling, measuring and recording the quantity of water diverted. The type and plans of the headgates and measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
4. The water users shall record, keep and maintain records of the quantity of water appropriated on a monthly basis and shall provide the same to the watermaster, upon request.

5. If substantial or undue interference with an existing ground water right, including and exempt use, with a priority date, as defined in OAR 690-250-130, senior to the date of this transfer application of November 9, 1993, occurs due to withdrawal of water from any ground water right transferred by this order, the use of the transferred ground water right shall be regulated to mitigate the interference.
6. Water shall be acquired from the same aquifer as the original point of appropriation.
7. The former place of use shall no longer be irrigated as part of this water right.
8. The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of **containerized nursery plants**, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of **in ground nursery plants** the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre per year. The use of water for NURSERY OPERATIONS may be made at anytime of the year that the use is beneficial. For the irrigation of **any other crop**, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.
9. The amount of water used for IRRIGATION and SUPPLEMENTAL IRRIGATION, together with the amount secured under any other right existing on the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2½ acre-feet per acre for each acre irrigated during the irrigation season of each year.

Certificates 38514 and 45238 are canceled. When satisfactory proof of the completed changes is received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources Director,
affixed NOV 13 2002.


for Paul R. Cleary, Director