

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

In the Matter of Transfer Application) FINAL ORDER APPROVING AN
T-11174, Umatilla County) ADDITIONAL POINT OF APPROPRIATION
) TO REFLECT HISTORIC USE

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, 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.

Applicants

RICHARD & MONA JENKINS
84668 GRANT ROAD
MILTON FREEWATER, OR 97862

BRUCE CRITTENDEN & RITA WASHAM
84660 GRANT ROAD
MILTON FREEWATER, OR 97862

Findings of Fact

Background

1. On December 22, 2010, Richard Jenkins and Bruce Crittenden, filed a transfer application for authorization of an additional historic point of appropriation under Certificate 86564. The Department assigned the application number T-11174.
2. On July 3, 2012, Mona Jenkins and Rita Washam were added as applicants.
3. The right to be transferred is as follows:
Certificate: 86564 in the name of Samuel Cummings, (perfected under Permit G-1025)
Use: IRRIGATION of 8.32 ACRES
Priority Date: July 14, 1958
Rate: 0.10 CUBIC FOOT PER SECOND (cfs)

This is a final 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 137-004-0080, 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.

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 a diversion of ONE-EIGHTIETH of one cubic foot per second, or the equivalent for each acre irrigated, and is further limited to a diversion 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 WALLA WALLA RIVER basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
6 N	35 E	WM	25	NE SE	19 ¼ CHAINS SOUTH AND 12 CHAINS WEST FROM THE E¼ CORNER OF SECTION 25

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	Tax Lot (User)	Acres
6N	36 E	WM	30	NW SW	TL 1200 Jenkins	4.31
6N	36 E	WM	30	NW SW	TL 1500 Crittenden	4.01

- Application T-11174 proposes to add an additional point of appropriation (well) for both parcels to reflect historic use. The additional well is located approximately 825 feet east from the authorized well at:

Proposed Additional Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
6N	35E	WM	25	NE SE	1050 FEET SOUTH AND 20 FEET WEST FROM THE E¼ CORNER OF SECTION 25

- Notice of the application for transfer was published on December 28, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On June 22, 2012, the Department mailed a draft copy of the Final Order proposing to approve Transfer Application T-11174 to the applicants. The draft Final Order set forth a deadline of July 21, 2012, for the applicants to respond. On July 11, 2012, the applicants submitted a written response requesting the Department to proceed with issuance of a Final Order and provided the necessary information to demonstrate that they are authorized to pursue the transfer.

Transfer Review Criteria (ORS 540.532 and OAR 690-380-2120)

- Pursuant to OAR 690-380-2110(2), based on the information provided, the proposed point of appropriation (UMAT 4572) develops the same (source) aquifer as that of the original authorized well (UMAT 4588), and complies with the Department's administrative rule under OAR 690-380-4010 (2)(e). Both wells are within the alluvial aquifer.

8. Pursuant to OAR 690-380-2120(2)(a), evidence has been submitted that the actual, current points of appropriation for the water right in question, as described in Finding of Fact #4, have been in use for more than 10 years.
9. Pursuant to OAR 690-380-2120(2)(c) the Watermaster provided a statement that to his knowledge there has been no complaint of injury due to the use of water at the actual, current point of appropriation, prior to the transfer request.
10. The Department did not identify any affected water rights pursuant to OAR 690-380-2120(3).
11. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
12. A well, pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.

Conclusions of Law

The proposed additional point of appropriation to reflect historical use in application T-11174 is consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change proposed in T-11174 is approved and effective immediately.
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 86564.
3. Water right certificate 86564 is cancelled. Certificates 87695 and 87696 will be issued to describe the change (an additional point of appropriation). Together, the new Certificates shall supersede Certificate 86564.
4. The quantity of water diverted at the additional point of appropriation, together with the quantity of water diverted at the authorized point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. 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 meter or measuring device in good working order and shall allow the Watermaster access to the meters or measuring devices.

Dated at Salem, Oregon this 19th day of July, 2012.

E. Timothy Wall for

Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing date: JUL 27 2012