

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-10452, Union County	)	CHANGE IN PLACE OF USE AND
	)	PARTIAL CANCELLATION

**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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

**Applicant**

MIKE BECKER  
10406 NORTH MCALISTER ROAD  
LA GRANDE OR 97850

**Agent**

GREG BLACKMAN  
2006 ADAMS AVENUE  
LA GRANDE OR 97850

**Background**

1. On August 30, 2007, Mike Becker filed an application to change the place of use under Certificates 42444 and 79512. The Department assigned the application number T-10452.
2. On September 5, 2009, the applicant submitted a revised map, modifying the acreage for transfer.
3. On September 5, 2009, the applicant submitted a revised cancellation affidavit, modifying acreage to be canceled.
4. The portion of the first right to be transferred is as follows:

**Certificate:** 42444 in the name of Helen McClune (perfected under Permit S-36357)  
**Use:** IRRIGATION of 12.5 ACRES  
**Priority Date:** JULY 13, 1971

<p>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.</p>
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**Rate:** 0.15 CUBIC FOOT PER SECOND

**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-FORTIETH 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:** GRANDE RONDE RIVER, tributary to the SNAKE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	38 E	WM	31	SW SW	800 FEET NORTH AND 160 FEET EAST FROM THE SW CORNER OF SECTION 31

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	31	SW NE	10.0
2 S	38 E	WM	31	SE NW	2.5

5. Application T-10452 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
2 S	38 E	WM	31	NE NE	5.0	500
2 S	38 E	WM	31	NW NE	2.5	500
2 S	38 E	WM	31	NW NE	1.3	500
2 S	38 E	WM	31	NE NW	3.7	500

6. The portion of the second right to be transferred is as follows:

**Certificate:** 79512 in the name of Steven Lynn Stonebreaker (confirmed by Grande Ronde River Decree)

**Use:** IRRIGATION of 37.0 ACRES

**Priority Date:** 1872

**Source:** GRANDE RONDE RIVER, tributary to the SNAKE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	38 E	WM	31	SW SW	1858.33 FEET SOUTH AND 80.84 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 31

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	23	NE SE	16.8
2 S	38 E	WM	23	NW SE	20.2

7. Certificate 79512 does not define the rate of the water right, however the decree defines the amount of water for the Orodell Ditch Company to be 100 miner's inches between

September first of each year and May first of the following year, 500 miner's inches between May first and July first of each year and 200 miner's inches between July first and September first of each year, but at no time shall said Orodell Ditch Association divert more than half of the flow of the river. By said decree the right of the Irrigation Canal Company are all subsequent to the rights of said Pioneer Flouring Mill Company and the rights of all other defendants in said suit are subsequent to the rights of the Pioneer Flouring Mill Company.

8. Application T-10452 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
2 S	38 E	WM	31	SW NE	34.0	500
2 S	38 E	WM	31	SE NW	3.0	500

9. Notice of the application for transfer was published on September 4, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On September 8, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10452 to the applicant and agent. The draft Preliminary Determination cover letter set forth a deadline of October 8, 2009, for the applicant/agent to respond. On October 5, 2009 the agent 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.
11. On October 9, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10452 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 October 13, 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***

12. Evidence was submitted with the application indicating that water has been used within the last five years according to the terms and conditions of the rights. The Watermaster's Injury review indicated that he had not witnessed the property being irrigated but did not have sufficient evidence to initiate cancellation proceedings under ORS 540.631.
13. 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-10452.
14. The proposed changes would not result in enlargement of the rights.
15. The proposed changes would not result in injury to other water rights.

### ***Partial Cancellation of a Water Right***

16. On September 5, 2009, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from Mike Becker. The right to be cancelled is as follows:

**Certificate:** 42444 in the name of Helen McClune (perfected under Permit S-36357)  
**Use:** IRRIGATION of 24.0 ACRES  
**Priority Date:** JULY 13, 1971  
**Rate:** 0.295 CUBIC FOOT PER SECOND  
**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-FORTIETH 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:** GRANDE RONDE RIVER, tributary to the SNAKE RIVER

#### **Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	38 E	WM	31	SW SW	800 FEET NORTH AND 160 FEET EAST FROM THE SW CORNER OF SECTION 31

#### **Authorized Place of Use to be Cancelled:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	31	SW NE	24.0

### **Conclusions of Law**

The change in place of use proposed in Transfer Application T-10452 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the portion of the abandoned right should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved and the portion of the abandoned right will be cancelled.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in application T-10452 is approved. The portion of the right that has been abandoned is cancelled.
2. Water right certificates 42444 and 79512 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer and cancellation.
3. 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 42444 and 79512 and any related decree.

4. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
5. The former place of use of the transferred rights shall no longer receive water under the rights.
6. 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.
7. When satisfactory proof of the completed change is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 19<sup>th</sup> day of November 2009.

  
Phillip C. Ward, Director *pc*

Mailing date: DEC 11 2009