

BEFORE THE WATER RESOURCES DIRECTOR OF
THE STATE OF OREGON

UMATILLA COUNTY

IN THE MATTER OF REJECTING) FINAL ORDER
TRANSFER APPLICATION 8770)

STATEMENT OF FACTS

Transfer Application 8770, in the name of Kent Madison, was filed with the Department on April 24, 2001. The applicant submitted the appropriate examination fees with the transfer application.

The proposed rights subject to transfer are located within the Butter Creek Critical Groundwater Area.

The Water Resources Department Groundwater Staff examined the transfer application and could not make a finding that this transfer application will not cause injury as proposed.

The District 5 Watermaster provided a statement that the request proposes to transfer a portion to a groundwater source, a source different from the authorized source. In addition, the request proposes a substantial location change where injury would also be likely.

On February 28, 2003, the Department reviewed the file with the applicant's authorized agent, Bill Porfily, SCM Consultants, to discuss the injury issues and whether to proceed. Mr. Porfily concurred the application should be rejected or withdrawn because of the Department's findings of injury.

DETERMINATION AND FINDINGS

Transfer Application 8770 proposed changing points of appropriation, adding points of diversion and adding additional points of appropriation for certain irrigated lands. The Department has determined the transfer proposes changes in source of water from that of the authorized source(s). This transfer application cannot be allowed under OAR 690-15-010 (1) which restricts a change in point of appropriation to the same aquifer as the authorized source of water. In addition, this transfer application cannot be allowed under OAR 690-15-0050 (2), which describes injury will occur when a change reduces the quantity of water previously available to

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.

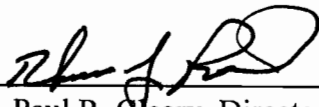
another water right and to which the other water right is entitled. Therefore, the request for additional points of appropriation from a different aquifer (source) in addition to the substantial distances involved will have the potential to cause injury to existing rights. The Department has designated the Critical Groundwater Areas in order to stop the cumulative, excessive decline of the water levels in the subject ground water reservoirs. In the designation of the Critical Ground Water Area, provisions are made to close the area to any further appropriations, allowing the Commission to refuse any applications and further exacerbating the already critical groundwater levels.

Staff performed a thorough and lengthy examination of the application, but shall refund an amount not to exceed \$50.00 of the examination fees submitted in accordance with ORS 536.050(h).

ORDER

Transfer Application 8770, in the name of Kent Madison, is REJECTED and of no further force or effect.

WITNESS the signature of the Water Resources Director, affixed MAR 19 2003.



Paul R. Geary, Director