



**Period of Use:** MARCH 1 THROUGH APRIL 30 FROM WELL 1 and MARCH 1 THROUGH OCTOBER 31 FROM WELL 2  
**Source:** 2 WELLS within the BRUSH CREEK BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
6 S	1 W	WM	33	SW SW	45	WELL 1 - 1120 FEET NORTH AND 360 FEET EAST FROM SOUTHWEST CORNER OF SECTION 33
6 S	1 W	WM	33	SW SW	45	WELL 2 - 1180 FEET NORTH AND 350 FEET EAST FROM SOUTHWEST CORNER OF SECTION 33

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 W	WM	33	SW SW	45	10.8

- Transfer Application T-10558 proposes an additional point of appropriation approximately 1200 feet from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
6 S	1 W	WM	33	SW SW	45	WELL 3 - 1180 FEET NORTH AND 350 FEET EAST FROM SOUTHWEST CORNER OF SECTION 33

- Notice of the application for transfer was published on MARCH 18, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On August 20, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10558 to the applicants. The draft Preliminary Determination set forth a deadline of September 21, 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 applicant is authorized to pursue the transfer.
- On October 23, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10558 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 October 27, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
- Groundwater production from the new point of appropriation (MARI 55878) shall only be from the basalt groundwater reservoir. Additionally, the initial water level to which subsequent water levels will be referenced is 23.70 feet below land surface. A water level measurement and water use reporting conditions are necessary for the new well as stipulated by OAR 690-502-0250.

### **Transfer Review Criteria (OAR 690-380-4010)**

8. Water has been used within the last five years prior to the submittal of Transfer Application T-10558 according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-10558.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.

### **Conclusions of Law**

The additional point of appropriation proposed in Transfer Application T-10558 is 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-10558 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 Certificate 80467 and any related decree.
3. Water right certificate 80467 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.
5. Water shall be acquired from the same aquifer, basalt groundwater aquifer, as the original point of appropriation.
6. Use of water from Well 3, as allowed herein, shall be controlled or shut off if the well displays:
  - (a) An average water level decline of three or more feet per year for five consecutive years; or
  - (b) A total water level decline of fifteen or more feet; or
  - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.

7. For the purpose of determining declines, a reference level of 23.70 feet below land surface shall be used for Well 3.
8. The landowner/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in Well 3.
  - (a) A water level measurement shall be made each year during the period March 1 through March 31.
  - (b) 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 landowner/appropriator.
  - (c) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
  - (d) The landowner/appropriator shall report the record of measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification 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 5 are evidenced by the well measurement required in section 7.
9. Measurement, recording and reporting conditions:
  - (a) Before water use may begin under this order, the water user shall install a totalizing flow meter or other suitable measuring device as approved by the Director at the new point of appropriation. The water user shall maintain the meter or measuring device in good working order.
  - (b) The water user shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the water user to report general water-use information, including the place and nature of use of water under the order.
  - (c) The water user shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
  - (d) The Director may provide an opportunity for the water user to submit alternative measuring and reporting procedures for review and approval.
10. 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.

11. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 30<sup>th</sup> day of November 2009.

  
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Phillip C. Ward, Director 

Mailing date: DEC 11 2009