

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-10517, Umatilla County)	ADDITIONAL POINTS OF
)	APPROPRIATION AND A CHANGE IN
)	PLACE OF USE

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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.

Applicant

Ditchen Land Company, LLC
c/o Darrin Ditchen
7385 Howell Prairie Rd NE
Silverton, OR 97381

Findings of Fact

Background

1. On January 4, 2008, Golden Valley Farms, LLC filed an application to change the place of use and add a point of appropriation under Certificates 76367, 76368, and 76369. The Department assigned the application number T-10517.
2. On June 26, 2008, transfer application T-10517 was assigned to Ditchen Land Company, LLC.
3. The first right to be transferred is as follows:

Certificate: 76367 in the name of DITCHEN LAND COMPANY (perfected under Permit G-6600)

Use: IRRIGATION of 400.0 ACRES

Priority Date: NOVEMBER 12, 1975

Rate: 2.2 CUBIC FEET PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: WELL 1 in the UMATILLA RIVER BASIN

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.

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	30 E	WM	30	NE SW	WELL 1 – 30 FEET SOUTH AND 640 FEET WEST FROM THE CENTER OF SECTION 30

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	30	NE NE	33.4
3 N	30 E	WM	30	NW NE	34.3
3 N	30 E	WM	30	SW NE	38.1
3 N	30 E	WM	30	SE NE	37.4
3 N	30 E	WM	30	NE NW	34.8
3 N	30 E	WM	30	NW NW	57.6
3 N	30 E	WM	30	SW NW	56.8
3 N	30 E	WM	30	SE NW	39.2
3 N	30 E	WM	30	NE SW	22.7
3 N	30 E	WM	30	NW SW	38.4
3 N	30 E	WM	30	NW SE	7.3
TOTAL:					400.0

4. Application T-10517 proposes to add an authorized point of appropriation approximately 0.8 mile northeast from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	T Lot	Survey Coordinates
3 N	30 E	WM	20	SW SW	3000	WELL 2 – 100 FEET NORTH AND 80 FEET EAST FROM THE SW CORNER OF SECTION 20

5. Application T-10517 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	T Lot	Acres
3N	30E	WM	30	NE NE	4900	30.8
3N	30E	WM	30	NW NE	4900	32.2
3N	30E	WM	30	SW NE	4900	38.0
3N	30E	WM	30	SE NE	4900	32.4
3N	30E	WM	30	NE NW	4900	34.3
3N	30E	WM	30	NW NW	4900	19.4
3N	30E	WM	30	SW NW	4900	36.1
3N	30E	WM	30	SE NW	4900	35.6
3N	30E	WM	30	NE SW	5000	21.7
3N	30E	WM	30	NW SW	5000	35.4
3N	30E	WM	30	NE SE	5000	29.8
3N	30E	WM	30	NW SE	5000	8.3
3N	30E	WM	30	SW SE	5000	19.3
3N	30E	WM	30	SE SE	5000	26.7
TOTAL:						400.0

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

Certificate: 76368 in the name of DITCHEN LAND COMPANY (perfected under Permit G-8041)

Use: SUPPLEMENTAL IRRIGATION of 123.6 ACRES

Priority Date: FEBRUARY 21, 1978

Rate: 3.0 CUBIC FEET PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: WELL 1 in the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	30 E	WM	30	NE SW	WELL 1 – 30 FEET SOUTH AND 640 FEET WEST FROM THE CENTER OF SECTION 30

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	30	NE NW	9.2
3 N	30 E	WM	30	NW NW	57.6
3 N	30 E	WM	30	SW NW	56.8
TOTAL:					123.6

7. Application T-10517 proposes to add an authorized point of appropriation approximately 0.8 mile northeast from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	T Lot	Survey Coordinates
3 N	30 E	WM	20	SW SW	3000	WELL 2 – 100 FEET NORTH AND 80 FEET EAST FROM THE SW CORNER SECTION 20

8. Application T-10517 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	T Lot	Acres
3 N	30 E	WM	30	SW NW	4900	26.8
3 N	30 E	WM	30	SE NW	4900	1.6
3 N	30 E	WM	30	NE SW	5000	2.9
3 N	30 E	WM	30	NW SW	5000	35.4
3 N	30 E	WM	30	NE SE	5000	29.8
3 N	30 E	WM	30	SW SE	5000	19.3
3 N	30 E	WM	30	SE SE	5000	7.8
TOTAL:						123.6

9. The portion of the third right to be transferred is as follows:

Certificate: 76369 in the name of DITCHEN LAND COMPANY (perfected under Permit G-8367)

Use: PRIMARY IRRIGATION of 80.3 ACRES AND SUPPLEMENTAL IRRIGATION OF 276.4 ACRES

Priority Date: AUGUST 2, 1978

Rate: 2.91 CUBIC FEET PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: WELL 2 in the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	30 E	WM	20	SW SW	WELL 2 – 100 FEET NORTH AND 80 FEET EAST FROM THE SW CORNER OF SECTION 20

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	30	NE SE	28.8
3 N	30 E	WM	30	SW SE	17.8
3 N	30 E	WM	30	SE SE	33.7
TOTAL:					80.3

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	30	NE NE	33.4
3 N	30 E	WM	30	NW NE	34.3
3 N	30 E	WM	30	SW NE	38.1
3 N	30 E	WM	30	SE NE	37.4
3 N	30 E	WM	30	NE NW	25.6
3 N	30 E	WM	30	SE NW	39.2
3 N	30 E	WM	30	NE SW	22.7
3 N	30 E	WM	30	NW SW	38.4
3 N	30 E	WM	30	NW SE	7.3
TOTAL:					276.4

10. Application T-10517 proposes to add an authorized point of appropriation approximately 0.8 mile southwest from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	T Lot	Survey Coordinates
3 N	30 E	WM	30	NE SW	5000	WELL 1 – 30 FEET SOUTH AND 640 FEET WEST FROM THE CENTER OF SECTION 30

11. Application T-10517 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	T Lot	Acres
3 N	30 E	WM	30	SW NE	4900	0.7
3 N	30 E	WM	30	SE NE	4900	5.4
3 N	30 E	WM	30	NW NW	4900	38.2
3 N	30 E	WM	30	SW NW	4900	20.7
3 N	30 E	WM	30	SE NW	4900	4.3
3 N	30 E	WM	30	NW SW	5000	11.0
TOTAL:						80.3

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	T Lot	Acres
3 N	30 E	WM	30	NE NE	4900	30.8
3 N	30 E	WM	30	NW NE	4900	32.2
3 N	30 E	WM	30	SW NE	4900	38.0
3 N	30 E	WM	30	SE NE	4900	32.4
3 N	30 E	WM	30	NE NW	4900	34.3
3 N	30 E	WM	30	NW NW	4900	19.4
3 N	30 E	WM	30	SW NW	4900	9.3
3 N	30 E	WM	30	SE NW	4900	34.0
3 N	30 E	WM	30	NE SW	5000	18.8
3 N	30 E	WM	30	NW SE	5000	8.3
3 N	30 E	WM	30	SE SE	5000	18.9
TOTAL:						276.4

12. Notice of the application for transfer was published on January 15, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
13. On March 11, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10517 to the applicant. The draft Preliminary Determination set forth a deadline of April 11, 2008 for the applicant to respond. The applicant 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.
14. On April 25, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10517 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 April 29, 2008, and in the East Oregonian newspaper on May 14, 21 and 28, 2008, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the Department's notice or newspaper notice.

Transfer Review Criteria (OAR 690-380-4010)

15. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
16. 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 Application T-10517.
17. The proposed changes would not result in enlargement of the rights.
18. The proposed changes would not result in injury to other water rights.

Conclusions of Law

The changes in place of use and additional points of appropriation proposed in application T-10517 are 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 changes in place of use and additional points of appropriation proposed in application T-10517 are approved.
2. Water right certificates 76367, 76368 and 76369 are cancelled. A new certificate will be issued describing that portion of the Certificate 76369 not affected by this transfer.
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 76367, 76368 and 76369 and any related decree.
4. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
5. The quantity of water diverted at the additional points 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.
6. The former place of use of the transferred rights shall no longer receive water under the rights.
7. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
8. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2009**. 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 changes and full beneficial use of the water.
9. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 15th day of July 2008.


Phillip C. Ward, Director *PCW*

Mailing date: JUL 08 2008