

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

In the Matter of Transfer Application) FINAL ORDER APPROVING AN
T-10325, Umatilla County) ADDITIONAL POINT OF
) APPROPRIATION

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

VON DERAHE, INC.
401 PARKVIEW STREET
MILTON- FREEWATER, OR 97862

Agent Information:

KIP JONES
P.O. BOX 78
MILTON- FREEWATER, OR 97862

Findings of Fact

Background

1. On February 22, 2007, Janis Bledsoe, of Von DerAhe, Inc., filed an application to add an additional point of appropriation (well) under Certificate 55609. The Department assigned the application number T-10325.

2. The right to be transferred is as follows:

Certificate: 55609 in the name of L. E. VON DERAHE (perfected under Permit U-447)

Use: Irrigation of 43.0 acres

Priority Date: February 13, 1952

Rate: 0.538 CUBIC FOOT PER SECOND, if available at the original point of appropriation in the NW¼ NW¼, Section 31, T6N, R36E, W.M., being 510 Feet South and 150 Feet East from the NW Corner of Section 31.

Source: A WELL within the WALLA WALLA 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
6 N	36 E	WM	31	NW NW	320 Feet South and 510 Feet East from the NW Corner of Section 31

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	36 E	WM	30	SW SW	7.0
6 N	36 E	WM	31	NW NW	36.0

3. Application T-10325 proposes to add an additional point of appropriation to the above described water right approximately 600 feet southwest to a well located:

Proposed Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 N	36 E	WM	31	NW NW	770 Feet South and 190 Feet East from the NW Corner of Section 31

4. Notice of the application for transfer was published on March 13, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On January 9, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10325 to the applicant. The draft Preliminary Determination requested written response from the applicant as to whether the draft is consistent with their intent in seeking the transfer. The cover letter set forth a deadline of February 11, 2008, for the applicant to respond. On January 15, 2008, the Department received written authorization from the applicant to continue with the Preliminary Determination.
6. On January 31, 2008, the Department issued a preliminary determination proposing to approve Transfer T-10325 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 February 5, 2008, pursuant to ORS 540.520. No protests were filed in response to the notice. Notice was not published in a newspaper because the proposed point of appropriation was less than one-fourth mile from the original point of appropriation and there were no wells between the old and new points of appropriation. *See OAR 690-380-4020(5)(c).*

Transfer Review Criteria (OAR 690-380-4010)

7. Water has been used within the last five years 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.

8. The Department has determined that the proposed point of appropriation will develop the same source of water as the authorized existing well (UMAT 5199).
9. A well, 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 Application T-10325.
10. The proposed change will not result in enlargement of the right.
11. The proposed change will not result in injury to other water rights.

Conclusions of Law

The additional point of appropriation proposed in application T-10325 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-10325 is approved.
2. Water right certificate 55609 is cancelled.
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 Certificate 55609 and any related decree.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation (UMAT 5199).
5. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
6. When required by the Department, the water user shall install, maintain and operate an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
7. 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.

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

Dated at Salem, Oregon this 7th day of March 2008.



pn

Phillip C. Ward, Director

Mailing date: **MAR 13 2008**