BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-9818, Deschutes County)	CHANGES IN POINT OF
,)	APPROPRIATION, PLACE OF USE
	,	AND CHARACTER OF USE

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.

Applicants

Roger and Cynthia Grossmann 70455 NW Lower Bridge Way Terrebonne, Oregon 97760

Keith and Summer Grossmann 9293 NW Coyner Ave Redmond, OR 97756

Findings of Fact

- 1. On November 5, 2004, Roger and Cynthia Grossmann filed a transfer application to change the place of use and character of use under Certificate 79484. The Department assigned the application number T-9818.
- 2. On March 2, 2005, Roger and Cynthia Grossmann and Keith and Summer Grossmann submitted a revised transfer application to also include changing the place of use and character of use under Certificate 64020 and submitted a revised transfer map for Section 27, T 14S, R 12E that presented the location of the proposed "to" lands for T-9818 and the location of the proposed "from" lands for the portion of T-9818 included in Certificate 64020.
- 3. On March 10, 2005, Cynthia Grossmann requested in a telephone conversation with WRD that a point of appropriation change be added to the transfer for Certificate 79484.

This is a final order in other than 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 137-004-0080 you may either 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.

4. The portion of the right to be transferred under Certificate 79484 is as follows:

Certificate: 79484 in the name of Roger and Cynthia Grossmann (perfected under

Permit G-12950)

Use: Irrigation
Priority Date: April 18, 1995

Quantity: 0.11 cfs (26.4 acre-feet per year)

Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre per year

Acres: 8.8

Source: Well No. 2 in the Deep Canyon Creek Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	1/4 1/4		/ 7 / 7		Survey Coordinates
14	S	12	Е	W.M.	19	NW	SW	2380' N and 4420' W from the SE corner of Section 19		

Authorized Place of Use:

Town	Township		nge	Meridian	Sec	1/4		Acres	
14	S	12	E	W.M.	19	SE	NE	1.1	
14	S	12	Е	W.M.	19	SE	SW	2.1	
14	S	12	Е	W.M.	19	NE	SE	1.9	
14	S	12	Е	W.M.	19	NW	SE	2.0	
14	S	12	Е	W.M.	19	SW	SE	1.0	
14	S	12	E	W.M.	30	NE	NW	0.7	

5. The portion of the right to be transferred under Certificate 64020 is as follows:

Certificate: 64020 in the name of Dan H. Heierman (perfected under Permit G-9342)

Use: Irrigation
Priority Date: April 30, 1981

Quantity: 0.004 cfs (0.96 acre-feet per year)

Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre per year

Acres: 0.32

Source: Well No. 1 in the Deschutes River Basin

Authorized Point of Appropriation:

Township		nship	Range		Meridian	Sec	1/4 1/4		Survey Coordinates
	14	S	12	E	W.M.	27	SE	SW	1280' N and 2620' E from the SW corner of Section 27

Authorized Place of Use:

Township		Rai	nge	Meridian	Sec	1/4 1/4		Acres	
14	S	12	Е	W.M.	27	NE	SW	0.17	

Township		Rai	-6-	Meridian	Sec	1/4 1/4		Acres	
14	S	12	Е	W.M.	27	SE	SW	0.15	

6. Application T-9818, as amended on March 10, 2005, proposes to move the authorized point of appropriation for the transferred lands described under Certificate 79484 approximately 3 miles from the existing point of appropriation in the Deep Canyon Creek basin to:

Township		Range		Meridian	Sec	1/4 1/4		1/4 1/4		Survey Coordinates
14	S	12	Е	W.M.	27	SE	SW	1280' N and 2620' E from the SW corner of Section 27		

7. Application T-9818, as amended by the Transfer Map received by WRD on March 2, 2005, proposes to change the place of use of the portion of the right described under certificates 79484 and 64020 to:

Town	Township		nge	Meridian	Sec	1/4 1/4	
14	S	12	Е	W.M.	27	SW N	ΙE
14	S	12	E	W.M.	27	SE N	IW
14	S	12	Е	W.M.	27	NE S	W
14	S	12	E	W.M.	27	NW S	E

- 8. Application T-9818, as amended on March 10, 2005, proposes to change the character of use of the transferred rights described under certificates 64020 and 79484 to Pond Maintenance in a Reservoir for Multi-Purpose Uses including irrigation, recreation, aquatic, and animal habitat.
- 9. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
- 10. Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights is present.
- 12. The proposed changes would not result in enlargement of the rights.
- 13. The proposed changes would not result in injury to other water rights.

Conclusions of Law

The changes in point of appropriation, place of use, and character of use proposed in application T-9818 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 point of appropriation/place of use/character of use proposed in application T-9818 are approved.
- 2. Water right certificates 79484 and 64020 are cancelled. New certificates will be issued describing those portions of the rights not involved in this transfer.
- 3. The right to 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 79484 and 64020 and any related decree, with the exception that pond maintenance is not limited to the irrigation season, provided the annual quantity of water allowed under the rights (27.36 acrefeet) is not exceeded.
- 4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation under Certificate 79484.
- 5. The proposed change shall be completed on or before October 1, 2006.
- 6. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2007.
- 7. The quantity of water diverted at the new 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.
- 8. The former place of use of the transferred water shall no longer be irrigated as part of these water rights.
- 9. Prior to diverting water at the new point of appropriation, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. 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.
- 10. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this ______ day of July, 2005.

Phillip C. Ward, Director

Mailing date: JUL 1 3 2005