

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

In the Matter of Transfer Application)	FINAL ORDER
T-11791, Umatilla County)	APPROVING CHANGES IN
)	PLACE OF USE AND POINT OF
)	APPROPRIATION

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

PERRY D AND SARA E BURROUGHS
31473 BENSEL ROAD
HERMISTON OR 97838

Findings of Fact

1. On April 16, 2014, PERRY D AND SARA E BURROUGHS filed an application to change the place of use and point of appropriation under Certificate 89053. The Department assigned the application number T-11791.
2. Notice of the application for transfer was published on April 22, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 3, 2015, the Department mailed a draft copy of the Preliminary Determination proposing to approve Transfer Application T-11791 to the applicant. The Preliminary Determination set forth a deadline of May 4, 2015 for the applicant to respond. On April 8, 2015, the applicant requested 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.

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.

4. On April 24, 2015, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11791 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on April 28, 2015 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

5. The right to be transferred is as follows:

Certificate: 89053 in the name of PERRY D AND SARA E BURROUGHS (perfected under Permit G-12292)
Use: IRRIGATION OF 37.5 ACRES
Priority Date: FEBRUARY 22, 1994
Rate: 0.469 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.
Period of Use: The period of allowed use is March 1 through October 31.
Source: A WELL within the UMATILLA DRAIN BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	28 E	WM	24	SW SW	(UMAT 5864/53571) - 90 FEET NORTH AND 45 FEET EAST FROM THE SW CORNER OF SECTION 24

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of Change
5 N	28 E	WM	24	NW SW	18.5	POA
5 N	28 E	WM	24	SW SW	17.5	POA
5 N	28 E	WM	24	SW SW	1.5	POA/POU

6. Transfer Application T-11791 proposes to change the point of appropriation (well) east approximately 50 feet from the authorized (well) for the lands identified as "POA" in the "Type of Change" column described above. The location for the proposed well is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	28 E	WM	24	NW SW	(UMAT 57221) - 70 FEET NORTH AND 90 FEET EAST FROM THE SW CORNER OF SECTION 24

7. Transfer Application T-11791 also proposes to change the place of use for land identified as "POU" in the "Type of Change" column described above to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	28 E	WM	24	NW SW	1.5

Transfer Review Criteria (OAR 690-380-4010)

8. Pursuant to OAR 690-380-2110(2), the Department has made a finding, based on the information provided, that the proposed point of appropriation (UMAT 57221) develops the same (source) aquifer as that of the existing, original authorized well (UMAT 5864/53571).
9. Water has been used within the last five years prior to the submittal of Transfer Application T-11791 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.
10. 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-11791.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Conclusions of Law


The changes in point of appropriation and place of use proposed in Transfer Application T-11791 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 and place of use proposed in Transfer Application T-11791 are 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 89053 and any related decree.
3. Water right Certificate 89053 is cancelled.
4. The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. The former place of use of the transferred right shall no longer receive water under the right.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2016**. A Claim of Beneficial Use prepared by a Certified Water Right 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. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 1 day of June, 2015.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing Date: JUN 05 2015