

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

In the Matter of Transfer Application                    )     FINAL ORDER  
T-10101, Deschutes County                            )     APPROVING A CHANGE IN POINT OF  
  )     APPROPRIATION AND  
  )     PLACE 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.

**Applicant**  
CATHLEEN WARNER  
14845 REMUDA RD  
SISTERS, OREGON 97759

**Agent**  
MICHELLE SIMMS  
P.O. BOX 751  
SISTERS, OREGON 97759

**Findings of Fact**

1. On February 21, 2006, Cathleen Warner filed an application to transfer the place of use under Certificate 79609. The Department assigned the application number T-10101.
2. The portion of the right to be transferred is as follows:

**Certificate:** 79609 in the name of CATHLEEN WARNER (perfected under Permit G-12549)

**Use:** IRRIGATION of 1.54 ACRES

**Priority Date:** AUGUST 11, 1993

**Rate:** 0.019 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH of one cubic foot per second per acre, not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year

**Acres:** 1.54 acres

**Season of use:** March 1 through October 31 of each year

**Source:** A WELL in the DESCHUTES RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
16 S	11 E	WM	7	SE NE	806.78 FEET NORTH AND 941.70 FEET WEST FROM THE E¼ CORNER OF SECTION 7.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a 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.

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	7	SE NE	1.54

3. Application T-10101 proposes to move the authorized point of appropriation approximately 8.5 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
15 S	10 E	WM	18	NW SW	625 FEET SOUTH AND 193 FEET EAST OF THE W¼ CORNER OF SECTION 18.

4. Application T-10101 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	10 E	WM	18	NW SW	1.54

5. Notice of the application for transfer was published on March 14, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
6. On December 15, 2006, the Department issued a preliminary determination proposing to approve Transfer Application T-10101 and mailed a copy to the applicant and agent for the applicant. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on December 19, 2006, and in The Nugget Newspaper on January 10, 17, and 24, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the Department's weekly notice or to the newspaper notice.
7. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

The changes in point of appropriation and place of use proposed in application T-10101 are consistent with the requirements of ORS 537.705, 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-10101 are approved.
2. 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 Certificate 79609 and any related decree.
3. Certificate 79609 is cancelled. A new certificate will be issued to describe that portion of the right not involved in this transfer.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. 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.
6. The quantity of water diverted at the new 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.
7. The former place of use of the transferred water shall no longer receive water as part of this right.
8. 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.
9. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 15<sup>th</sup> day of March 2007.

  
Phillip C. Ward, Director

Mailing date: MAR 19 2007