

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

In the Matter of Transfer Application T-10219, Umatilla County)))	FINAL ORDER APPROVING A CHANGE IN PLACE OF USE AND POINT OF DIVERSION
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Authority

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

WALLACE AND CAROL ROMSOS
1823 BIRCH AVENUE
RICHLAND, WASHINGTON 99352

Findings of Fact

1. On August 2, 2006, Wallace and Carol Romsos filed a transfer application to change the place of use and point of diversion for lands described under a portion of Certificate 81641. The Department assigned the application number T-10219.
2. An amendment to the transfer application map was received on August 21, 2006, clarifying the acreages identified in tax lots 400 and 401.
3. The portion of the right to be transferred is as follows:

Certificate: 81641, in the name of Justin E. and Christina Brunson, Donald O. and Claudia Romsos, and Wallace and Carol Romsos.
Use: Irrigation of 0.54 acre, domestic and stock
Priority Date: 1891
Rate & Duty: One and one-half miner’s inches per acre measured at the point of diversion
Source: South Fork Walla Walla River, tributary to the Walla Walla River
Authorized Point of Diversion:
ROBERTS DITCH

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order 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 137-004-080 and OAR 690-01-005, 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:

TWP	RNG	MER	SEC	¼ ¼	Acres
4 N	37 E	W.M.	10	SW NW	0.16
4 N	37 E	W.M.	10	SW NW	0.38

4. The Department received information that better describes that the point of diversion and locates it at:

TWP	RNG	MER	SEC	¼ ¼	Survey Coordinates
4 N	37 E	W.M.	10	NE SW	ROBERTS DITCH

5. Transfer Application T-10219 proposes to change the place of use for the above described 0.16 acre (located on tax lot 401) to:

TWP	RNG	MER	SEC	¼ ¼	TL	Acres
4 N	37 E	W.M.	10	NW SW	500	0.16

6. Transfer Application T-10219 also proposes to change the point of diversion for the above described 0.16 acre at the new place of use and the existing 0.38 acre (also located on Tax Lot 500), approximately 0.5 mile downstream from the authorized point of diversion to a point located:

TWP	RNG	MER	SEC	¼ ¼	Survey Coordinates
4 N	37 E	W.M.	10	NW SW	16 FEET SOUTH AND 212 FEET EAST FROM THE W1/4 CORNER OF SECTION 10

7. Notice of the application for transfer was published on August 22, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice. However, the Oregon Department of Fish and Wildlife (ODFW) did request inclusion of a condition requiring installation of proper fish screens. On November 28, 2006, ODFW requested a modification of the condition, as reflected in this document.
8. On December 15, 2006, the Department issued a preliminary determination proposing to approve Transfer Application T-10219 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 December 19, 2006, and in the Valley Herald on January 26, 2007, February 2, 2007, and February 9, 2007 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response neither to the Department's notice nor to the newspaper notices.
9. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were

diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion is eligible for screening cost share funds.

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 statement was received from the landowners of Tax Lot 401 (Justin Brunson) authorizing the change in place of use of 0.16 acres to the applicants, Wallace and Carol Romsos on Tax Lot 500.
12. A ditch, pump and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.

Conclusions of Law

The changes in point of diversion and place of use proposed in Transfer Application T-10219 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in point of diversion and place of use proposed in Transfer Application T-10219 are approved.
2. Upon the issuance of this final order, along with final orders issued approving Transfer Applications T-8587 and T-10220, Certificate 81641 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 81641 and any related decree.
4. Water shall be acquired from the same source as the original point of diversion.
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 proposed points of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.

7. When required by the Department, the water user shall install and maintain a headgate, 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 headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
8. Prior to diversion of water at the new point of diversion, the water user shall install a fish screening and/or by-pass device, as appropriate, consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
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 15th day of March, 2007.


Phillip C. Ward, Director *FOR*

Mailing date: MAR 19 2007