

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

In the Matter of Transfer Application            )  
T-7978, Lake County                                )  
  )  
  )  
  )  
  )  
  )

SUPERSEDING FINAL ORDER  
APPROVING CHANGES IN POINT OF  
APPROPRIATION AND PLACE OF  
USE AND CORRECTING A  
SCRIVENER’S ERROR IN A  
PREVIOUS ORDER

**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**

MERVIN STUTZMAN  
PO BOX 296  
CHRISTMAS VALLEY, OR 97641

**Findings of Fact**

**Background**

1. On April 13, 1998, MERVIN STUTZMAN filed an application to change the point of appropriation and the place of use under Certificate 54693. The Department assigned the application number T-7978.
2. On July 2, 1998, the Department issued a Final Order approving the transfer, recorded at Special Order Volume 52, Pages 641 to 643. However, it has been brought to the Department’s attention that the order contained a scrivener’s error in the Township listed in the description of the proposed place of use.
3. This order is issued to correct the scrivener’s error and to supersede the previous order recorded at Special Order Volume 52, Pages 641 to 643.
4. The portion of the right to be transferred is as follows:

**Certificate:** 54693 in the name of MERVIN STUTZMAN (perfected under Permit G-9078)

**Use:** IRRIGATION of 135.2 ACRES

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.

**Priority Date:** DECEMBER 2, 1980

**Rate:** 1.69 CUBIC FEET 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 for each acre irrigated, and shall be further limited to a diversion of not to exceed 3 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** A WELL within the FORT ROCK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	17 E	WM	19	NE NE	1320 FEET SOUTH AND 1280 FEET WEST FROM THE NE CORNER OF SECTION 19

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	17 E	WM	19	NE NE	33.2
27 S	17 E	WM	19	NW NE	32.8
27 S	17 E	WM	19	SW NE	34.5
27 S	17 E	WM	19	SE NE	34.7

5. Transfer Application T-7978 proposes to move the authorized point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	17 E	WM	31	SE NW	1323 FEET SOUTH AND 1234 FEET EAST FROM THE NW CORNER OF SECTION 31

6. Transfer Application T-7978 also proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
26 S	17 E	WM	31	NE NW			30.0
26 S	17 E	WM	31	NW NW	1		24.8
26 S	17 E	WM	31	SW NW	2		24.9
26 S	17 E	WM	31	SE NW			30.0
26 S	17 E	WM	31	NE SW			8.5
26 S	17 E	WM	31	SW SW	4		8.5
26 S	17 E	WM	31	SE SW			8.5

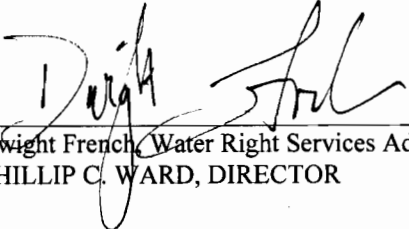
**Conclusions of Law**

Pursuant to ORS 537.705, notice was given and no objections were filed, and finding that no injury to existing water rights would result, TRANSFER T-7978 should be approved, as conditioned or limited herein. The scrivener's error in Special Order Volume 52, Pages 641 to 643 should be corrected in the record.

**Now, therefore, it is ORDERED:**

1. The order entered at Special Order Volume 52, Pages 641 to 643 is withdrawn and of no further force and effect, and is superseded by this order.
2. The changes in point of appropriation and place of use proposed in Transfer Application T-7978 are approved.
3. The proposed changes shall be completed on or before October 1, 1999.
4. The quantity of water diverted at the new point of appropriation (well) shall not exceed the quantity of water available from the original point of appropriation.
5. When required by the Department the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. 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.
6. Water shall be acquired from the same aquifer as the original point of appropriation.
7. The former place of use shall no longer be irrigated as part of this water right.
8. Certificate 54693 is cancelled. When satisfactory proof of the completed change is received, a new certificate confirming this water right will be issued.

Dated at Salem, Oregon this 31 day of May, 2011.

  
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Dwight French, Water Right Services Administrator, for  
PHILLIP C. WARD, DIRECTOR

Mailing date: JUN 03 2011