

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-10937, Umatilla County	)	CHANGE IN POINT OF
	)	APPROPRIATION

**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**

JOSH and SANDRA BRAY  
70056 WAGON TRAIL RD  
ECHO, OR 97826

**Findings of Fact**

***Background***

1. On August 3, 2009, Josh and Sandra Bray filed an application to change the point of appropriation under Certificate 75563. The Department assigned the application number T-10937.

2. The right to be transferred is as follows:

**Certificate:** 75563 in the name of ALAN M. and RUTH G. INSKO (perfected under Permit G-5470)

**Use:** IRRIGATION of 9.5 ACRES and SUPPLEMENTAL IRRIGATION OF 3.5 ACRES

**Priority Date:** November 18, 1974

**Rate:** 0.16 CUBIC FOOT PER SECOND (cfs)

**Limit/Duty:** ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated during the irrigation season

**Source:** JACOB'S WELL within the McKAY CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Lot	Measured Distances
1 S	32 E	WM	1	SE SE	16	440 FEET NORTH AND 1200 FEET WEST FROM THE SE CORNER OF SECTION 1

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.

**Authorized Place of Use:**

IRRIGATION (IR)						
Twp	Rng	Mer	Sec	Q - Q	Lot	Acres
1 S	32 E	WM	1	SE SE	16	9.5

SUPPLEMENTAL IRRIGATION (IS)						
Twp	Rng	Mer	Sec	Q - Q	Lot	Acres
1 S	32 E	WM	1	SE SE	16	3.5

3. Transfer Application T-10937 proposes to change the point of appropriation for the above described lands approximately 410 feet east from the authorized well to:

Twp	Rng	Mer	Sec	Q - Q	Lot	Measured Distances
1 S	32 E	WM	1	SE SE	16	400 FEET NORTH AND 800 FEET WEST FROM THE SE CORNER OF SECTION 1

4. Notice of the application for transfer was published on August 18, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. The Department has determined that the proposed construction of the new well will likely develop the same source of water as the authorized existing Jacob's Well (UMAT 43/UMAT 45 *extended casing*). The Department recommends the transfer be conditioned to require the proposed well to be cased and sealed to a minimum depth of 225 feet below land surface to ensure that the new well develops the same water source.
6. On October 20, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10937 to the applicant. The draft Preliminary Determination set forth a deadline of November 20, 2010, for the applicant to respond. On November 23, 2010, the applicant submitted a letter requesting the Department to proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
7. On December 6, 2010, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10937 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 7, 2010, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

***Transfer Review Criteria (OAR 690-380-4010)***

8. Water has been used within the last five years prior to the submittal of Transfer Application T-10937 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.
9. A well, pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-10937.

10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.

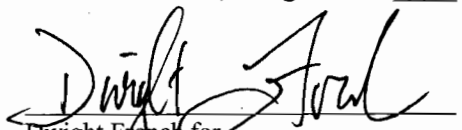
**Conclusions of Law**

The change in point of appropriation in Transfer Application T-10937 appears to be 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 change in point of appropriation proposed in application T-10937 is approved. 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 75563 and any related decree.
2. Water right certificate 75563 is cancelled.
3. 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.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation (UMAT 43/ UMAT 45- extended casing). The new proposed well shall be cased and sealed to a minimum depth of 225 feet below land surface.
5. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at the new point of appropriation. The water user shall maintain the meter or measuring device in good working order. The water user shall allow the Watermaster access to the meter; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
6. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. 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 change and full beneficial use of the water.
7. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 11 day of January 2011.

  
Dwight French for  
PHILLIP C. WARD, DIRECTOR

Mailing date: JAN 12 2011