

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

In the Matter of Transfer Application) FINAL ORDER APPROVING AN
T-10711, Marion County) ADDITIONAL 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

ADAPS, LLC
7251 ST. PAUL HIGHWAY NE
ST. PAUL, OR 97137

Findings of Fact

Background

1. On September 30, 2008, ADAPS, LLC filed an application for an additional point of appropriation under Certificate 54709. The Department assigned the application number T-10711.

2. The right to be transferred is as follows:

Certificate: 54709 in the name of MILTON HUNGSBERG (perfected under Permit G-3875)

Use: IRRIGATION of 139.1 ACRES

Priority Date: OCTOBER 23, 1967

Rate: 1.03 CUBIC FEET PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season of each year

Source: A WELL in the CHAMPOEG CREEK BASIN

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 Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	14	SW SE	48	370 FEET SOUTH AND 730 FEET EAST FROM THE SW CORNER OF DLC 45

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	14	NE SW	45	2.1
4 S	2 W	WM	14	SE SW	48	21.5
4 S	2 W	WM	14	SE SW	45	2.3
4 S	2 W	WM	14	NE SE	45	5.4
4 S	2 W	WM	14	NW SE	45	13.1
4 S	2 W	WM	14	SW SE	45	18.9
4 S	2 W	WM	14	SW SE	48	10.9
4 S	2 W	WM	14	SE SE	45	13.9
4 S	2 W	WM	23	NW NE	48	4.7
4 S	2 W	WM	23	NE NW	48	38.4
4 S	2 W	WM	23	NW NW	48	3.3
4 S	2 W	WM	23	SE NW	48	4.6

3. Transfer Application T-10711 proposes an additional point of appropriation approximately 1,650 feet northeast of the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	14	SE SE	45	10 FEET SOUTH AND 2320 FEET EAST FROM THE SW CORNER OF DLC 45

4. Notice of the application for transfer was published on October 7, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On October 9, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10711 to the applicant's agent, with a copy to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 10, 2009, for the applicant to respond. Justin Gericke, representing the applicant, requested that 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.
6. On December 17, 2010, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10711 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on December 22, 2009, and in the Statesman Journal newspaper on January 13, 20 and 27, 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)

7. Water has been used within the last five years prior to the submittal of Transfer Application T-10711 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.
8. A 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-10711.
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

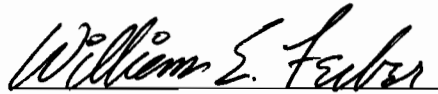
The additional point of appropriation proposed in Transfer Application T-10711 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional point of appropriation proposed in application T-10711 is 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 54709 and any related decree.
3. Water right certificate 54709 is cancelled.
4. The quantity of water diverted at the additional 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.
5. Water use measurement conditions:
 - a. 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 each point of appropriation.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.

7. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. 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 change and full beneficial use of the water.
8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 26th day of February 2010.



for Phillip C. Ward, Director

Mailing date: MAR 05 2010