

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

In the Matter of Transfer Application                    )    FINAL ORDER APPROVING A  
T-8587, Umatilla County                                 )    CHANGE IN POINT OF DIVERSION

**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**

JUSTIN E. & CHRISTINA BRUNSON  
1806 McMURRAY  
RICHLAND, WASHINGTON 99354

**Findings of Fact**

1. On August 25, 2000, Justin and Christina Brunson filed a transfer application to change the point of diversion for lands described under a portion of Water Right Certificate 12602. The Department assigned the application number T-8587.
2. On December 21, 2005, Judge Garry L. Reynolds of the Circuit Court of the State of Oregon for Umatilla County signed the Stipulation and Order Correcting the Decree to clarify a typographical error contained in Certificate 12602.
3. On January 12, 2006, the Department issued Certificate 81641 to supersede Certificate 12602, consistent with the order of the circuit court described in Finding of Fact #2.
4. 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 (confirmed by the Walla Walla River Decree)

**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.

**Use:** Irrigation of 1.24 acres, 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, a tributary to the Walla Walla River

**Authorized Point of Diversion:**  
ROBERTS DITCH

**Authorized Place of Use:**

TWP	RNG	MER	SEC	¼	¼	Acres
4 N	37 E	W.M.	10	SW	NW	1.24

5. The Department received information that better describes the point of diversion and is located at:

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

6. Transfer Application T-8587 proposes to change the point of diversion for the above described 1.24 acres approximately 0.5 mile downstream to a point located at:

TWP	RNG	MER	SEC	¼	¼	TL	Survey Coordinates
4 N	37 E	W.M.	10	SW	NW	401	141 FEET NORTH AND 44 FEET EAST FROM THE W1/4 CORNER OF SECTION 10

7. Notice of the application for transfer was published on September 5, 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 did request inclusion of a condition requiring installation of proper fish screens.
8. On September 14, 2006, the Department issued a preliminary determination proposing approving of Transfer Application 8587 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 September 19, 2006 and in the Valley Herald newspaper on August 25, September 1 and September 8, 2006. No protests were filed in response to the 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. However, funds may not be currently available. ODFW has indicated a grace period is appropriate until such time as cost share funds become available to assist in the construction of a fish screening and/or by-pass device. If cost share funds do not become available, the water user must screen within the indicated time period regardless of cost share funding availability.

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 pump and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

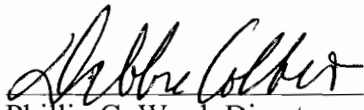
The change in point of diversion proposed in Transfer Application T-8587 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

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

1. The change in point of diversion proposed in Transfer Application T-8587 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 81641 and any related decree.
3. Water shall be acquired from the same source as the original point of diversion.
4. 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.
5. 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.
6. 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.
7. The water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction, and shall be installed under the supervision of the Department of Fish and Wildlife.

8. Upon issuance of a final order, along with final orders approving Transfer Applications T-10219 and T-10220, Certificate 81641 will be cancelled.
9. When satisfactory proof of the completed change is received, a new certificate confirming the portion of the right transferred will be issued.

Dated at Salem, Oregon this 23<sup>rd</sup> day of October, 2006.

  
Phillip C. Ward, Director

Mailing Date: OCT 26 2006