



**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	¼	¼	Survey Coordinates
4 N	28 E	W.M.	24	SW	SE	Well 2 – 1230 feet North and 1910 feet West from the SE corner of Section 24

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	¼	¼	Acres
4N	28E	WM	23	NE	SE	5.8
4N	28E	WM	23	SE	SE	5.0
4N	28E	WM	24	NE	SW	26.0
4N	28E	WM	24	NW	SW	37.4
4N	28E	WM	24	SW	SW	37.6
4N	28E	WM	24	SE	SW	28.0
4N	28E	WM	24	NE	SE	11.2
4N	28E	WM	24	NW	SE	34.0
4N	28E	WM	24	SW	SE	38.4
4N	28E	WM	24	SE	SE	13.6
<b>TOTAL:</b>						<b>237.8</b>

3. Transfer Application T-9853 proposes to change the place of use of 194.1 acres to the following locations:

Twp	Rng	Mer	Sec	¼	¼	Acres
3N	29E	WM	9	NW	NE	3.6
3N	29E	WM	9	SW	NE	37.5
3N	29E	WM	9	SE	NE	0.6
3N	29E	WM	9	NW	SE	26.2
3N	29E	WM	14	SW	NW	6.5
3N	29E	WM	14	NW	SW	6.4
3N	29E	WM	15	SE	NE	14.7
3N	29E	WM	15	NE	SE	30.6
3N	29E	WM	15	NW	SE	13.0
3N	29E	WM	15	SW	SE	24.9
3N	29E	WM	15	SE	SE	30.1
<b>TOTAL:</b>						<b>194.1</b>

4. Transfer Application T-9853 also proposes to change the place of use and to diminish 43.7 acres from primary irrigation to supplemental irrigation on the following lands to which a primary irrigation right under Certificate 80850 is appurtenant:

Twp	Rng	Mer	Sec	¼	¼	Acres
3N	29E	WM	13	NW	NW	36.1
3N	29E	WM	13	SW	NW	7.6
<b>TOTAL:</b>						<b>43.7</b>

- Transfer Application T-9853 proposes to change the point of appropriation for the proposed places of use described in Findings of Fact #3 and #4, approximately 5 miles in a southeasterly direction from the authorized point of appropriation (Cook well) to a well located at:

Twp	Rng	Mer	Sec	¼	¼	Survey Coordinates
3 N	29 E	W.M.	9	SE	SW	Seibel Well – 380 feet North and 3120 feet West from the SE corner of Section 9

- Notice of the application for transfer was published on February 8, 2005, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
- On September 8, 2006, the Department issued a Preliminary Determination proposing approving of Transfer Application T-9853 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 12, 2006 and in the The Hermiston Herald on August 29, September 5 and September 12, 2006.
- Water has been used within five years according to the terms and conditions of the right, as modified by Special Order Volume 57, page 382, approving Temporary Transfer T-9364, and Special Order Volume 62, page 123, approving Temporary Transfer T-9677. No evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- A pump, pipeline and sprinkler system sufficient to use the full amount of water allowed under the existing right are present and have been used within the last five years at the place of use authorized under T-9364 and T-9677.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.

**Conclusions of Law**


The changes in place of use, point of appropriation and partial diminution from primary to supplemental irrigation proposed in Transfer Application T-9853 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

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

- The changes in place of use and point of appropriation proposed in application T-9853 are 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 79890 and any related decree.
3. Water shall be acquired from the same source as the original point of appropriation, namely the basalt ground water source, and is restricted to the same subarea (A) of the Stage Gulch Critical Ground Water Area.
4. The use of water for supplemental irrigation at the proposed place of use described in Finding of Fact #4 is restricted to the total rate and duty described by Certificate 80850, and may be used only to make up a deficiency of supply.
5. Water right Certificate 79890 is cancelled.
6. The former place of use shall no longer be irrigated as part of this water right.
7. 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 report 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 project and beneficial use of the water.
8. The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
9. Prior to diverting water at the new point of appropriation, 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 plan 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.
10. When satisfactory proof of the completed changes is received, a new certificate confirming 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