

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING CHANGES
T-10320, Umatilla County)	IN POINTS OF APPROPRIATION AND
)	PLACE OF USE

Authority

ORS 540.505 to 540.580 establishes 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

SCOTT MADISON
75512 HIGHWAY 207
ECHO, OR 97826

Findings of Fact

Background

1. On February 14, 2007, Scott Madison filed an application to change the place of use under Certificates 25901, 32597, 28737, 80822, 80823, 60951, 35783, 60952, and Permits S-51017 and S-46499; and to change the points of appropriation and place of use under Certificate 35811. The Department assigned the application number T-10320.
2. Revisions to the application were received on April 20, 2007, and corresponding revisions to the application map were received on April 26, 2007. These revisions correctly identified one of the sources and removed a portion of one of the supplemental permits.
3. The portion of the first right to be transferred is as follows:
Certificate: 25901 in the name of A. B. THOMSON, OWNER and BERT PULLOR, OWNER OF CONTRACT TO PURCHASE (confirmed by John Day River Decree, recorded in Grant County Circuit Court in Volume 15, Page 461)

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.

Use: IRRIGATION of 46.5 ACRES

Priority Date: 1908

Limit/Duty: ONE-FORTIETH cfs per acre to JUNE 1 and ONE-EIGHTIETH cfs thereafter; further limited to 1.0 acre-foot per calendar month to June 1 and 4.0 acre-feet per acre during season April 1 to September 30, measured at the point of diversion

Source: FIVEMILE CREEK

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	30	NW NE	37.4
3 N	28 E	WM	30	SW NE	9.1
TOTAL:					46.5

4. Transfer Application T-10320 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3N	28E	WM	18	SE SE	2.9
3N	28E	WM	19	NE NE	25.9
3N	28E	WM	19	SE NE	17.7
TOTAL:					46.5

5. The portion of the second right to be transferred is as follows:

Certificate: 32597 in the name of GAYLORD M. MADISON (perfected under Permit S-26265)

Use: SUPPLEMENTAL IRRIGATION of 19.3 ACRES

Priority Date: JULY 13, 1959

Rate: 0.39 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-FIFTIETH cfs per acre, not to exceed 4.0 acre-feet per acre during the irrigation season of each year

Source: UNNAMED SPRING, tributary to BUTTER CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
3 N	28 E	WM	30	SW NE

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	30	NW NE	19.3
TOTAL:					19.3

6. Certificate 32597 does not describe the location of the point of diversion, however information is available from the applicant and Certified Water Rights Examiner indicating that the point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	28 E	WM	30	SW NE	1370 FEET SOUTH AND 1800 FEET WEST FROM THE NE CORNER OF SECTION 30

7. Transfer Application T-10320 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3N	28E	WM	18	SE SE	2.5
3N	28E	WM	19	NE NE	16.8
TOTAL:					19.3

8. The portion of the third right to be transferred is as follows:

Certificate: 28737 in the name of GAYLORD M. MADISON (perfected under Permit S-25159)

Use: SUPPLEMENTAL IRRIGATION of 29.9 ACRES

Priority Date: SEPTEMBER 30, 1957

Rate: 0.59 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-FIFTIETH cfs per acre, not to exceed 4.0 acre-feet per acre during the irrigation season of each year

Source: NORTH SPRING, a tributary to BUTTER CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
3 N	28 E	WM	30	SW NE

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	30	NE NE	16.7
3 N	28 E	WM	30	NW NE	1.2
3 N	28 E	WM	30	SW NE	7.0
3 N	28 E	WM	30	SE NE	5.0
TOTALS:					29.9

9. Certificate 28737 was originally applied for by Gaylord M. Madison under Application S-31906 on September 30, 1957. The applicant requested to use water from the North and South Springs for "irrigation and supplemental irrigation" of 88.0 acres. The Department issued Permit S-25159 on November 29, 1957 approving the application, but only allowed "supplemental irrigation" because of the existence of irrigation Permits E-106 and 1546 located on the same lands. The proposed project under Permits E-106 and 1546 was never developed, however, so Permits E-106 and 1546 were voluntarily cancelled on June 22, 1959, under Special Order Volume 10, Page 111.

When Certificate 28737 was issued on July 13, 1959, it described the right for the use of 1.69 cfs from the North and South Springs as being "supplemental irrigation" of 84.3 acres. Since the underlying permits had been cancelled just three weeks prior to the issuance of the certificate, however, Certificate 28737 should have been issued as primary irrigation, pursuant

to ORS 540.670. Therefore, on February 26, 1985, Department staff determined that the designation of all irrigated lands under Certificate 28737 as being supplemental was arbitrary, and for any of the involved lands that did not already have a valid primary irrigation right, the Department would consider Certificate 28737 as being the primary source of supply.

10. Based upon Finding of Fact #9, the Department has determined that the portion of the authorized place of use under Certificate 28737 to be transferred under Application T-10320 should be described as follows:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Rate
3 N	28 E	WM	30	NE NE	16.7	
3 N	28 E	WM	30	SE NE	5.0	
TOTAL:					21.7	0.43 CFS

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Rate
3 N	28 E	WM	30	NW NE	1.2	
3 N	28 E	WM	30	SW NE	7.0	
TOTAL:					8.2	0.16 CFS

11. Transfer Application T-10320 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Primary Irrigation Acres	Supplemental Irrigation Acres
3 N	28 E	WM	19	SE NE	--	8.2
3 N	28 E	WM	19	NE NE	12.3	--
3 N	28 E	WM	20	NW NW	9.4	--
TOTALS:					21.7	8.2

12. The portion of the fourth right to be transferred is as follows:

Certificate: 80822 in the name of MADISON RANCHES INC. (perfected under Permit G-7207)

Use: SUPPLEMENTAL IRRIGATION of 68.6 ACRES

Priority Date: MAY 26, 1977

Rate: 0.3 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year. This right is limited to any deficiency in the available supply of any prior right for the same land.

Source: A PIT WELL in the BUTTER CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	28 E	WM	30	NW NE	970 FEET SOUTH AND 1950 FEET WEST FROM THE NE CORNER OF SECTION 30

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	30	NW NE	37.4
3 N	28 E	WM	30	SW NE	9.1
3 N	28 E	WM	30	NE SE**	16.7
3 N	28 E	WM	30	SE NE	5.4
TOTAL:					68.6

****See Finding of Fact #13**

13. A scrivener's error is contained in the authorized place of use listing for Certificate 80822. The Final Proof Survey clearly shows the 16.7 acres (noted by ** in the table above) as being located in the NE ¼ NE ¼ of Section 30, Township 3 North, Range 28 East, W.M.
14. Transfer Application T-10320 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	18	SE SE	2.9
3 N	28 E	WM	19	NE NE	38.6
3 N	28 E	WM	19	SE NE	17.7
3 N	28 E	WM	20	NW NW	9.4
TOTAL:					68.6

15. The portion of the fifth right to be transferred is as follows:

Certificate: 80823 in the name of MADISON RANCHES INC. (perfected under Permit G-7615)

Use: SUPPLEMENTAL IRRIGATION of 68.6 ACRES

Priority Date: JUNE 14, 1977

Rate: 0.18 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year. This right is limited to any deficiency in the available supply of any prior right for the same land.

Source: A PIT WELL in the BUTTER CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	28 E	WM	30	NW NE	970 FEET SOUTH AND 1950 FEET WEST FROM THE NE CORNER OF SECTION 30

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	30	NW NE	37.4
3 N	28 E	WM	30	SW NE	9.1
3 N	28 E	WM	30	NE SE**	16.7
3 N	28 E	WM	30	SE NE	5.4
TOTAL:					68.6

****See Finding of Fact #16**

16. A scrivener's error is contained in the authorized place of use listing for Certificate 80823. The Final Proof Survey map clearly shows the 16.7 acres (noted by ** in the table above) as being located in the NE ¼ NE ¼ of Section 30, Township 3 North, Range 28 East, W.M.

17. Transfer Application T-10320 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	18	SE SE	2.9
3 N	28 E	WM	19	NE NE	38.6
3 N	28 E	WM	19	SE NE	17.7
3 N	28 E	WM	20	NW NW	9.4
TOTAL:					68.6

18. The portion of the sixth water use permit to be transferred is as follows:

Permit: S-51017 in the name of KENT R. and SHANNON K. MADISON (applied for under Application S-70272 and as modified by Special Orders Vol. 49, Page 481; Vol. 54, Page 49; Vol. 56, Page 365; and Vol. 59, Page 20)

Use: SUPPLEMENTAL IRRIGATION of 135.8 ACRES

Priority Date: APRIL 2, 1990

Rate: 0.47 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 4.5 acre feet for each acre during the irrigation season during the period from March 1 to November 1 of each year; further limited to a diversion of not to exceed 1.5 acre-feet per acre irrigated during the period from November 2 to the end of February, provided the use of water shall not exceed 4.5 acre-feet for each acre irrigated in any one year. The quantity of water allowed herein, together with any other existing right from this point of diversion shall not exceed the current capacity of the diversion system.

Source: COLUMBIA RIVER, tributary to PACIFIC OCEAN

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
4 N	25 E	WM	2	NE NW	7	150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2
5 N	27 E	WM	13	NW SW	4	2270 FEET NORTH AND 940 FEET EAST FROM THE SW CORNER OF SECTION 13

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3N	28E	WM	18	SE SW	6.6
3N	28E	WM	18	NE SE	15.6
3N	28E	WM	18	SW SE	12.5
3N	28E	WM	19	NW NE	10.1
3N	28E	WM	19	SW NE	8.1
3N	28E	WM	19	NE NW	8.6
3N	28E	WM	19	SE SW	6.1
3N	28E	WM	30	NW NE	37.4
3N	28E	WM	30	SW NE	9.1
3N	28E	WM	30	NE NE	16.7

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3N	28E	WM	30	SE NE	5.0
TOTAL:					135.8

19. Transfer Application T-10320 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3N	28E	WM	17	NW SW	12.2
3N	28E	WM	17	SW SW	3.0
3N	28E	WM	18	SE SE	21.2
3N	28E	WM	19	NE NE	39.3
3N	28E	WM	19	SE NE	39.1
3N	28E	WM	19	NE NW	3.6
3N	28E	WM	20	NWNW	9.6
3N	28E	WM	20	SW NW	7.8
TOTAL:					135.8

20. The portion of the seventh right to be transferred is as follows:

Certificate: 60951 in the name of THOMAS RICHARDS and SONS (perfected under Permit S-3694)

Use: IRRIGATION of 10.5 ACRES

Priority Date: MAY 17, 1917

Rate: 0.13 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre during the irrigation season of each year

Source: BUTTER CREEK, tributary to UMATILLA RIVER

Authorized Point of Diversion:

IRRIGATION				
Twp	Rng	Mer	Sec	Q-Q
3 N	25 E**	WM	19	NE SW

****See Finding of Fact #21**

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	18	SE SW	6.6
3 N	28 E	WM	19	SW NE	3.9
TOTAL:					10.5

21. There is a scrivener's error in the description of the authorized point of diversion on Certificate 60951 (noted by ** in the POD table in Finding of Fact #20). Based on the final proof survey, knowledge of the applicant and the Certified Water Rights Examiner, the location of the authorized point of diversion should be described as:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
3 N	28 E	WM	19	NE SW

22. Transfer Application T-10320 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	19	NE NE	1.0
3 N	28 E	WM	19	SE NE	5.8
3 N	28 E	WM	20	NW NW	0.2
3 N	28 E	WM	20	SW NW	3.5
TOTAL:					10.5

23. The portion of the eighth right to be transferred is as follows:

Certificate: 35811 in the name of FRED DAVIS AND TRESA DAVIS (perfected under Permit G-438)

Use: IRRIGATION of 8.0 ACRES and SUPPLEMENTAL IRRIGATION of 22.9 ACRES

Priority Date: NOVEMBER 21, 1956

Rate: 0.39 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year

Source: TWO WELLS in the BUTTER CREEK (UMATILLA RIVER) BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	28 E	WM	19	SW NE	NO. 1 - 850 FEET NORTH AND 1370 FEET EAST FROM THE SW CORNER, SENW, OF SECTION 19
3 N	28 E	WM	19	SE NW	NO. 2 - 1240 FEET NORTH AND 100 FEET EAST FROM THE SW CORNER, SENW, OF SECTION 19

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Primary Irrigation Acres	Supplemental Irrigation Acres
3 N	28 E	WM	19	NW NE	4.0	4.1
3 N	28 E	WM	19	SW NE	1.4	6.7
3 N	28 E	WM	19	NE NW	2.6	6.0
3 N	28 E	WM	19	SE NW	--	6.1
TOTALS:					8.0	22.9

24. Transfer Application T-10320 proposes to move the authorized points of appropriation to a well located approximately 0.25 mile from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3N	28E	WM	19	NW NW	PIT WELL #3 - 1670 FEET NORTH AND 2160 FEET EAST FROM THE W¼ CORNER OF SECTION 19

25. Transfer Application T-10320 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Primary Irrigation Acres	Supplemental Irrigation Acres
3 N	28 E	WM	17	SW SW	--	0.5
3 N	28 E	WM	18	SE SE	--	2.9
3 N	28 E	WM	19	NE NE	--	0.1
3 N	28 E	WM	19	SE NE	5.4	14.1
3 N	28 E	WM	19	NE NW	2.6	1.0
3 N	28 E	WM	20	SW NW	--	4.3
TOTALS:					8.0	22.9

26. The portion of the ninth right to be transferred is as follows:

Certificate: 35783 in the name of FRED E. DAVIS (perfected under Permit G-2597)

Use: SUPPLEMENTAL IRRIGATION of 30.9 ACRES

Priority Date: FEBRUARY 24, 1964

Rate: 0.22 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year

Source: A WELL in the BUTTER CREEK (UMATILLA RIVER) BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	28 E	WM	19	NE NW	1670 FEET NORTH AND 2160 FEET EAST FROM THE W1/4 CORNER OF SECTION 19

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	19	NW NE	8.1
3 N	28 E	WM	19	SW NE	8.1
3 N	28 E	WM	19	NE NW	8.6
3 N	28 E	WM	19	SE NW	6.1
TOTAL:					30.9

27. Transfer Application T-10320 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	17	SW SW	0.5
3 N	28 E	WM	18	SE SE	2.9
3 N	28 E	WM	19	NE NE	0.1
3 N	28 E	WM	19	SE NE	19.5
3 N	28 E	WM	19	NE NW	3.6
3 N	28 E	WM	20	SW NW	4.3
TOTAL:					30.9

28. The portion of the tenth right to be transferred is as follows:

Certificate: 60952 in the name of CAROLINE E. ROGERS (confirmed by Umatilla River Decree, Vol. 3, Page 250)

Use: IRRIGATION of 49.1 ACRES

Priority Date: 1869 and 1880

Rate: 0.82 CUBIC FOOT PER SECOND (CFS), being 0.48 CFS under the 1869 priority date and 0.34 CFS under the 1880 priority date

Source: BUTTER CREEK, tributary to UMATILLA RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	18	NE SE	15.6
3 N	28 E	WM	18	SW SE	12.5
3 N	28 E	WM	19	NW NE	6.1
3 N	28 E	WM	19	SW NE	2.8
3 N	28 E	WM	19	NE NW	6.0
3 N	28 E	WM	19	SE NW	6.1
TOTAL:					49.1

29. While the point of diversion location is not specified in Certificate 60952, information is available from the applicant and CWRE that places the authorized point of diversion as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	28 E	WM	19	NE SW	10 FEET SOUTH AND 1800 FEET EAST FROM THE W/14 CORNER OF SECTION 19

30. Transfer Application T-10320 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	17	NW SW	12.2
3 N	28 E	WM	17	SW SW	3.0
3 N	28 E	WM	18	SE SE	18.3
3 N	28 E	WM	19	NE NE	0.1
3 N	28 E	WM	19	SE NE	10.2
3 N	28 E	WM	19	NE NW	1.0
3N	28E	WM	20	SW NW	4.3
TOTAL:					49.1

31. The portion of the eleventh water use permit to be transferred is as follows:

Permit: S-46499 in the name of JOHN MADISON (agent for Frank N. Mueller, Top Cut Feedlots, Inc.) applied for under Application S-57999

Use: SUPPLEMENTAL IRRIGATION of 49.1 ACRES

Priority Date: OCTOBER 16, 1978

Rate: 0.98 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-FIFTIETH cfs per acre further limited to 1.0 acre-foot per acre during the period from September 2 to December 30; provided further that the right allowed herein, together with the amount secured under any other right existing for the same lands, shall not exceed 4.0 acre-feet for each acre irrigated in any one year

Source: BUTTER CREEK, tributary to UMATILLA RIVER

Authorized Point of Diversion: Diversion B only as listed on Permit

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	28 E	WM	19	NE SW	10 FEET SOUTH AND 1800 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 19

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3N	28E	WM	18	NE SE	15.6
3N	28E	WM	18	SW SE	12.5
3N	28E	WM	19	NW NE	6.1
3N	28E	WM	19	SW NE	2.8
3N	28E	WM	19	NE NW	6.0
3N	28E	WM	19	SE NW	6.1
TOTAL:					49.1

32. Transfer Application T-10320 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	28 E	WM	17	NW SW	12.2
3 N	28 E	WM	17	SW SW	3.0
3 N	28 E	WM	18	SE SE	18.3
3 N	28 E	WM	19	NE NE	0.1
3 N	28 E	WM	19	SE NE	10.2
3 N	28 E	WM	19	NE NW	1.0
3N	28E	WM	20	SW NW	4.3
TOTAL:					49.1

33. Notice of the application for transfer was published on February 27, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
34. On December 31, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10320 to the applicant and his agent. The draft Preliminary Determination set forth a deadline of February 2, 2008, for the applicant to respond. 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.
35. On January 28, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10320 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 February 5, 2008, 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(2)]

36. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
37. A diversion structure, ditch, pump, pipeline, and/or sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-10320.
38. The proposed change would not result in enlargement of the rights.
39. The proposed change would not result in injury to other water rights.

Conclusions of Law

The changes in points of appropriation and place of use proposed in Transfer Application T-10320 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

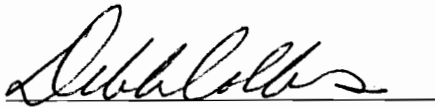
Now, therefore, it is ORDERED:

1. The changes in points of appropriation and place of use proposed in application T-10320 are approved.
2. Water right Certificates 25901, 32597, 28737, 80822, 80823, 60951, 35811, 35783, and 60952 are cancelled. New certificates will be issued describing the portions of the rights not affected by this transfer.
3. Permits S-51017 and S-46499 are amended as described herein. All other terms and conditions of Permits S-51017 and S-46499 remain the same.
4. 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 Certificates 25901, 32597, 28737, 80822, 80823, 60951, 35811, 35783, 60952, Permits S-51017 and S-46499, and any related decree.
5. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.
6. The former place of use of the transferred rights and amended water use permits shall no longer receive water under the affected rights and permits contained in this transfer.
7. The water user shall maintain and operate all existing measurement devices and shall make such improvements as may be required by the Department.
8. When required by the Department, the water user shall install, maintain and operate a headgate to control and regulate the quantity of water diverted. The type and plans of the

headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

9. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2009**. 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.
10. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 14th day of March 2008.


Far Phillip C. Ward, Director

Mailing date: MAR 27 2008