

5. The portion of the right to be transferred is as follows:
Certificate: 53749 in the name of CHARLES ROGER MONTEE (perfected under Permit G-8969)
Use: IRRIGATION of 2.0 ACRES
Priority Date: JUNE 27, 1980
Rate: 0.025 CUBIC FOOT PER SECOND
Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 ACRE-FEET per acre per year
Source: A WELL, within the McKAY CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	32 E	WM	34	SE NE	2300 FEET SOUTH AND 870 FEET WEST FROM THE NE CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
2 N	32 E	WM	34	SE NE	2.0

6. Transfer application T-10566 proposes to change the place of use of the above described right to:

Proposed Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
2 N	32 E	WM	34	SW NE	2.0

7. Transfer application T-10566 also proposes to change the point of appropriation now to two wells. The original proposed well on TL 200 is located northwest approximately 920 feet from the original existing point of appropriation. The Department also moves to allow an additional well to be added for the irrigation of the above 2.0 acres located approximately 1200 feet from the existing point of appropriation to Tax Lot 400 located:

Proposed Points of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	TL#	Measured Distances
2 N	32 E	WM	34	SW NE	200	1490 FEET SOUTH AND 1330 FEET WEST FROM THE NE CORNER OF SECTION 34
2 N	32 E	WM	34	SW NE	400	1530 FEET SOUTH AND 1810 FEET WEST FROM THE NE CORNER OF SECTION 34

8. Notice of the application for transfer was published on October 27, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. On April 9, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10566 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 12, 2010, for the applicant to respond. The applicant requested the Department to extend the deadline for completion of the changes to October 1, 2012 due to the difficult economic conditions, requested 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.

10. On October 23, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10566 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 October 27, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
11. On December 11, 2009, the Department issued a Final Order approving T-10566 and it was recorded in the Special Order Volume 79, Pages 286 – 290. Certificate 85875 was issued to describe the portion of the right not affected by the cancellation and transfer.
12. In March of 2010, the Department became aware of additional items to consider (an existing well on Tax Lot 400 that would be preferable as a point of appropriation to the new well that was approved in the T-10566 order). The information provided by the landowner necessitated the need for the Department, on its own motion, to re-consider the Final Order and to issue a new Final Order modifying, affirming, or reversing the original decision.
13. On May 12, 2010, the Department issued a revised Preliminary Determination proposing to approve Transfer Application T-10566 with the addition of the existing well as a point of appropriation and mailed a copy to the applicant. Additionally, notice of the revised Preliminary Determination for the transfer application was published on the Department's weekly notice on May 18, 2010, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
14. This order is issued to supersede and modify the order for T-10566 recorded in Special Order Volume 79, Pages 286 – 290.

Transfer Review Criteria (OAR 690-380-4010)

15. Water has been used within the five years prior to the submittal of Transfer Application T-10566 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.
16. A well, pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-10566.
17. The new additional proposed point of appropriation (UMAT 699) does develop the same (source) aquifer as that of the original authorized well (UMAT 739).
18. The proposed change would not result in enlargement of the right.
19. The proposed change would not result in injury to other water rights.

Partial Cancellation of a Water Right

20. On March 30, 2009, affidavits certifying that portions of a water right have been abandoned and requesting cancellation of the portions of the right were received from Michael K.

Wagner and Diane Cort-Wagner (1.6 acres) and from Greg and Deborah Wagner (0.4 acre). The portion of the right to be cancelled is as follows:

Certificate: 53749 in the name of CHARLES ROGER MONTEE (perfected under Permit G-8969)

Use: IRRIGATION of 2.0 ACRES

Priority Date: JUNE 27, 1980

Rate: 0.025 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3 acre-feet per acre per year

Source: A WELL, a tributary of MCKAY CREEK in the MIDDLE COLUMBIA-UMATILLA BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 N	32 E	WM	34	SE NE	2300 FEET SOUTH AND 870 FEET WEST FROM THE NE CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 N	32 E	WM	34	SE NE	2.0

Conclusions of Law

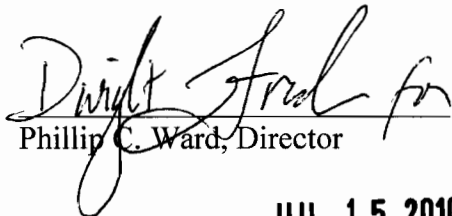
The changes in place of use and an additional point of appropriation proposed in application T-10566 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the abandoned right is cancelled. The Final Order issued November 30, 2009 and recorded in Special Order Volume 79, Pages 286-290 approving Transfer Application T-10566 should be modified.

Now, therefore, it is ORDERED:

1. The Final Order approving T-10566 recorded in Special Order Volume 79, Pages 286-290 is rescinded, of no further force or effect and is modified and superseded by this order.
2. The changes in place of use and an additional point of appropriation proposed in application T-10566 are approved. The portion of the right that has been abandoned is cancelled.
3. 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 53479 and any related decree.
4. Water right certificate 53749 is cancelled. Certificate 85875 has been issued describing that portion of the right not affected by this transfer and cancellation.
5. Water diverted from the new points of appropriation shall be acquired from the same aquifer (water source) as the original point of appropriation (UMAT 739).
6. The quantity of water diverted at the new points of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.

6. The quantity of water diverted at the new points of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
7. The former place of use of the transferred right shall no longer receive water under the right.
8. When required by the Department, the water user shall install, maintain and operate an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. The type and plans 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.
9. The approved changes 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 changes and full beneficial use of the water.
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 13 day of July 2010.


Phillip C. Ward, Director

Mailing date: JUL 15 2010