

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

In the Matter of Transfer Application                    )     **FINAL ORDER APPROVING AN**  
T-8286, Umatilla County                                    )     **ADDITIONAL POINT OF DIVERSION**

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.

On June 7, 1999, T O Williams & Associates filed a transfer application for an additional point of diversion under Certificates 5532 and 5541. The Department assigned the application number T-8286. Notice of the application for transfer was published pursuant to ORS 540.520. A protest was filed July 16, 1999 and a contested case hearing was held.

A Proposed Final Order was issued December 22, 1999, in which the administrative law judge concluded that the application may be approved so long as no more water is taken at the additional point of diversion than is available at the existing points of diversion under the subject water rights. No exceptions were received within 30 days of the date of service of the Proposed Final Order.

**Applicant**

T O WILLIAMS & ASSOCIATES  
49654 UMAPINE ROAD  
MILTON-FREEWATER OR 97862

**Findings of Fact**

1. The first right to be transferred is as follows:  
**Certificate:** 5532 in the name of MRS ROSE MCDONNELL (confirmed by the Pine Cr decree)  
**Use:** IRRIGATION of 91.70 ACRES  
**Priority Date:** 1861, 1885  
**Rate:** No limitation on the head of water diverted unless there is insufficient water to provide all lands then shall not exceed ONE-SIXTIETH of one cfs  
**Limit/Duty:** no more than 1 ac ft per acre during any 30 day period nor 3 ac ft during the irrigation season beginning 4/1 and ending 10/1 of each year.  
**Source:** PINE CR, tributary to WALLA WALLA R  
**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority
6 N	34 E	WM	23	SW SW	10.00	1885
6 N	34 E	WM	26	NE NW	3.90	1885

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority
6 N	34 E	WM	26	NW NW	3.00	1861
6 N	34 E	WM	26	NW NW	32.80	1885
6 N	34 E	WM	26	SE NW	2.00	1885
6 N	34 E	WM	27	NE NE	38.00	1861
6 N	34 E	WM	27	NE NE	2.00	1885

2. The applicant provided information to clarify the location of the authorized points of diversion under Certificate 5532. The location described by the applicant is correct and is as follows:

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	SOURCE	Survey Coordinates
6 N	34 E	WM	35	SW NW	PINE CR	DICKERSON D; 2120 FT S & 10 FT E FM NW COR S 35
6 N	34 E	WM	26	NW SE	DRY CR	190 FT S & 790 FT E FM CENTER S 26

3. Application T-8286 proposes to add a point of diversion approximately downstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 N	34 E	WM	27	NE NE	70 FT S & 270 FT W FM NE COR S 27

4. The second right to be transferred is as follows:

**Certificate:** 5541 in the name of ROBERT WRIGHTS (confirmed by Pine Cr decree)

**Use:** IRRIGATION of 30 ACRES

**Priority Date:** 1861

**Rate:** No limitation on the head of water diverted unless there is insufficient water to provide all lands then shall not exceed ONE-SIXTIETH of one cfs

**Limit/Duty:** no more than 1 ac ft per acre during any 30 day period nor 3 ac ft during the irrigation season beginning 4/1 and ending 10/1 of each year.

**Source:** PINE CR, tributary to WALLA WALLA R

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	34 E	WM	27	NE SE	20.00
6 N	34 E	WM	27	SE SE	10.00

5. The applicant provided information to clarify the location of the authorized point of diversion under Certificate 5541. The location described by the applicant is correct and is as follows:

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	SOURCE	Survey Coordinates
6 N	34 E	WM	35	SW NW	PINE CR	DICKERSON D; 2120 FT S & 10 FT E FM NW COR S 35

6. Application T-8286 proposes to add a point of diversion approximately downstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 N	34 E	WM	27	NE NE	70 FT S & 270 FT W FM NE COR S 27

7. Oregon Department of Fish and Wildlife requested inclusion of a condition requiring installation of proper fish screens.
8. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
9. A diversion structure, ditch pump, pipeline, and sprinkler system is sufficient to use the full amount of water allowed under the existing right are present.
10. The proposed change would not result in enlargement of the right.
11. Pursuant to the Proposed Final Order dated December 22, 1999, the proposed change would not result in injury to other water rights.

#### **Conclusions of Law**

The proposed change for an additional point of diversion in application T-8286 is consistent with the requirements of ORS 540.505 to 540.580.

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

1. The change for an additional point of diversion proposed in application T-8286 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 Certificates 5532 and 5541 and any related decree.
3. The proposed change shall be completed on or before October 1, 2007.
4. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2008.
5. The quantity of water diverted at the additional point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
6. Prior to diverting water, 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.

Dated at Salem, Oregon this 1<sup>ST</sup> day of November 2005.

*For*   
Phillip C. Ward, Director

Mailing date: NOV 03 2005