

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

In the Matter of Transfer Application            )     FINAL ORDER APPROVING A  
T-10668, Deschutes County                    )     CHANGE IN PLACE OF USE

**Authority**

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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**  
ERIC VETTERLEIN  
1100 SW SIXTH AVENUE #1200  
PORTLAND OR 97204

**Agent**  
MICHELE SIMS  
FRED AST AND ASSOCIATES  
P.O. BOX 751  
SISTERS, OR 97759

**Findings of Fact**

**Background**

1. On July 7, 2008, Eric Vetterlein filed an application for Desert Springs Ranch Limited Partnership, to change the place of use under Certificate 61097. The Department assigned the application number T-10668.
2. On December 17, 2009, Certificate 61097 was cancelled by orders of the Water Resources Director approving Transfer Applications T-10502, T-10503, T-10791 and T-10806, and superseded by remaining right Certificate 85977.
3. On June 13, 2011, Certificate 85977 was cancelled by an order of the Water Resources Director approving Transfer Application T-10914, and superseded by remaining right Certificate 87099.

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

**Certificate:** 87099 in the name of DONALD H VETTERLEIN (perfected under Permit G-8846)

**Use:** IRRIGATION of 45.4 ACRES

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.

**Priority Date:** MARCH 4, 1980

**Rate:** 0.57 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

**Source:** A WELL in the DEEP CANYON BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
15 S	11 E	WM	19	SW SW	4	1200 FEET NORTH AND 450 FEET EAST FROM THE SW CORNER OF SECTION 19

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
15 S	11 E	WM	19	SW SW	4	21.4
15 S	11 E	WM	19	SE SW	4	24.0

5. Application T-10668 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
15S	11E	WM	20	SW NE	5.4
15S	11E	WM	20	SE NE	4.5
15S	11E	WM	20	NE SW	16.0
15S	11E	WM	20	NW SW	2.0
15S	11E	WM	20	NE SE	2.0
15S	11E	WM	20	NW SE	15.5

6. Notice of the application for transfer was published on July 15, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On June 3, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10668 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 7, 2009, for the applicant to respond. The applicant provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer and requested that the Department proceed with issuance of a Preliminary Determination.
8. On June 25, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10668 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 June 30, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
9. The Department has determined that the "TO" lands are covered by Certificate 74135 and upon approval the rights would become layered unless that portion of Certificate 74135 is simultaneously transferred to other land or cancelled. Transfer application T-10891 proposes to move the portion of Certificate 74135 off of those lands to avoid layering of the rights. Final Orders for T-10668 and T-10891 will be issued simultaneously.

***Transfer Review Criteria (OAR 690-380-4010)***

10. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
11. A 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 Application T-10668.
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.

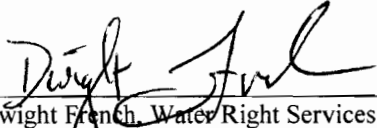
**Conclusions of Law**

The change in place of use proposed in application T-10668 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

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

1. *The change in place of use proposed in application T-10668 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 87099 and any related decree.*
3. *Water right certificate 87099 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The former place of use of the transferred right shall no longer receive water under the right.*
5. *Prior to diverting water, the water user shall install 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. The water user shall maintain and operate the measuring device as required by the Department.*
6. *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.*
7. *When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 21 day of September, 2011.



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Dwight French, Water Right Services Administrator, for  
PHILLIP C. WARD, DIRECTOR

Mailing date: SEP 22 2011