

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-10075 and T-10076, Deschutes County)	CHANGES IN POINT OF
)	APPROPRIATION AND PLACE OF
)	USE

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

JAYME L KACZMAREK
PO BOX 471
BEND OR 97709

Findings of Fact

1. Jayme L Kaczmarek filed two applications to change the place of use and point of appropriation for portions of the right evidenced by Certificate 81534. The Department assigned the applications numbers T-10075 and T-10076. Certificate 81534 has been superseded by Certificate 81675 as a result of approval of T-9859.
2. The portion of the right to be transferred under T-10075 (affecting Well #2 only) is as follows:

Certificate: 81675 in the name of JAYME L KACZMAREK (perfected under Permit G-12705)

Use: IRRIGATION of 3.0 ACRES

Priority Date: AUGUST 31, 1992

Rate: 0.04 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 (#2 in Certificate 81675) in the DESCHUTES RIVER Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Well #	Survey Coordinates
16 S	11 E	WM	4	SW SW	2	1390 FEET SOUTH & 1020 FEET EAST FROM W1/4 CORNER, SECTION 4

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either 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.

Authorized Place of Use:**IRRIGATION**

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	4	NE SW	0.9
16 S	11 E	WM	4	NW SE	2.1

3. Application T-10075 proposes to change the point of appropriation for 3.0 acres approximately 4.25 miles northwest from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
15	10	WM	26	NE NE	300 FEET SOUTH AND 600 FEET WEST FROM THE NE CORNER OF SECTION 26

4. Application T-10075 also proposes to change the place of use of the above listed 3.0 acre portion of the right to:

IRRIGATION

Twp	Rng	Mer	Sec	Q-Q	Acres
15	10	WM	26	NE NE	3.0

5. Terry and Susan Bridwell are identified as the receiving landowners and will be responsible for completing the changes proposed by T-10075.
6. The portion of the right to be transferred under T-10076 (affecting Well #2 only) is as follows:

Certificate: Lot 2 of Certificate 81675 in the name of JAYME L KACZMAREK (Perfected under Permit G-12705)

Use: IRRIGATION of 4.0 ACRES

Priority Date: AUGUST 31, 1992

Rate: 0.05 CUBIC FOOT PER SECOND

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

Source: A Well (#2 in Certificate 81675) located in the DESCHUTES RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Well #	Survey Coordinates
16 S	11 E	WM	4	SW SW	2	1390 FEET SOUTH & 1020 FEET EAST FROM W1/4 CORNER, SECTION 4

Authorized Place of Use:**IRRIGATION**

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	11 E	WM	4	NW SE	4.0

7. Application T-10076 proposes to change the point of appropriation for the 4.0 acres approximately 5 miles south from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
16	11	WM	34	NE SW	2250 FEET EAST AND 1350 FEET NORTH FROM THE SW CORNER OF SECTION 34

8. Application T-10076 also proposes to change the place of use of the above listed 4.0 acre portion of the right to:

IRRIGATION

Twp	Rng	Mer	Sec	Q-Q	Acres
16	11	WM	34	NE SW	4.0

9. Rachel and Thomas Harpham are identified as the receiving landowners and will be responsible for completing the changes proposed by T-10076.
10. Notice of the applications for both transfers was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
11. Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
12. Pumps, pipelines, and sprinkler systems sufficient to use the full amount of water allowed under the existing right are present.
13. The proposed changes would not result in enlargement of the right.
14. To ensure that the new point of appropriation described in T-10076, located in the NE $\frac{1}{4}$, SW $\frac{1}{4}$, Section 34, T16S,R11E, W.M. accesses the same water source as the original authorized well, it must appropriate groundwater from no shallower than 200 feet below land surface.
15. If conditioned as in Finding of Fact #14, the proposed change would not result in injury to other water rights.
16. On May 11, 2006, the Department issued a preliminary determination proposing to approve Transfers T-10075 and T-10076 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 May 16, 2006, and in The Bend Bulletin newspaper on May 23 and 30, and June 6, 2006 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

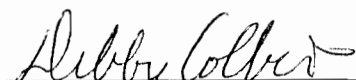
Conclusions of Law

The changes in place of use and points of appropriation proposed in applications T-10075 and T-10076 are consistent with the requirements of ORS 537.705, 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in place of use and points of appropriation proposed in applications T-10075 and T-10076 are approved.
2. Water right certificate 81675 is cancelled. A new certificate will be issued describing that portion of the right not involved in these transfers.
3. The right to 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 81675 and any related decree.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2007**. 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.
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 water shall no longer receive water as part of this right.
8. When required by the Department, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. 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. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 11th day of July 2006.


Phillip C. Ward, Director

PWR
Mailing date: JUL 13 2006