

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
1	S	13	E	W.M.	21	NW NE			5.1 (APOD)
Total									17.0

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

Certificate: 35401 in the name of Arthur and Elizabeth Appling
Use: Irrigation
Priority Date: July 14, 1964
Quantity: 0.257 cfs
Rate/Duty: 1/80th of cubic foot per second, not to exceed 3.0 acre-feet per acre per year
Acres: 20.9
Source: Eight Mile Creek, tributary to Fifteen Mile Creek
Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates		
1	S	13	E	W.M.	21	NW NE	800'S & 1980'W from NE corner, Section 21		

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
1	S	13	E	W.M.	21	NE NE			9.1 (POU & APOD)
1	S	13	E	W.M.	21	NE NE			9.0 (APOD)
1	S	13	E	W.M.	21	NW NE			2.8 (POU & APOD)
Total									20.9

4. Application T-9815 proposes to add an additional point of diversion for the lands described below, approximately 1000 feet downstream in the Eight Mile Creek to:

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates		
1	S	13	E	W.M.	21	NW NE	70'S & 1380'W from NE corner, Sec. 21		

5. Application T-9815 proposes to change the place of use for the above described rights as follows:

Tabulation of Proposed Place of Use and Additional Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Cert.	Changes	Acres
1	S	13	E	W.M.	21	NE NE	32604	POU & APOD	9.1
1	S	13	E	W.M.	21	NW NE	32604	POU & APOD	2.8
1	S	13	E	W.M.	21	NW NE	32604	APOD	5.1
Total									17.0
1	S	13	E	W.M.	21	NE NE	35401	APOD	9.0
1	S	13	E	W.M.	21	NW NE	35401	POU	11.9
Total									20.9

6. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice. However, the Oregon Department of Fish and Wildlife did request inclusion of a condition requiring installation of proper fish screens.
7. 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.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
9. The supplemental water right Certificate 62490 will remain in place for both primary water rights.
10. The proposed changes would not result in enlargement of the rights.
11. The proposed changes would not result in injury to other water rights.

Conclusions of Law


The changes in place of use and additional point of diversion proposed in application T-9815 are 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 changes in place of use and additional point of diversion proposed in application T-9815 are approved.
2. Water right certificates 32604 and 35401 are cancelled. A new certificate will be issued describing that portion of the right described by certificate 35401 not involved in this transfer.
3. The right to the use of the water is restricted to beneficial use at the places of use described and is subject to all other conditions and limitations contained in Certificates 35401 and 32604 and any related decree.
4. The proposed changes shall be completed on or before October 1, 2006.
5. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2007.
6. 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.
7. The former places of use shall no longer be irrigated as part of these water rights

8. Prior to diverting water at the new point of diversion, 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.
9. 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.
10. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 20th day of July, 2005.


Phillip C. Ward, Director

Mailing date: JUL 29 2005