



**Authorized Point of Appropriation:**

| Twp | Rng  | Mer | Sec | Q-Q   | Survey Coordinates  |
|-----|------|-----|-----|-------|---|
| 4 N | 28 E | WM  | 12  | SE SE | 150 FEET NORTH AND 760 FEET WEST FROM THE SE CORNER OF SECTION 12 |

**Authorized Place of Use:**

| IRRIGATION |      |     |     |       |      |       |
|------------|------|-----|-----|-------|------|-------|
| Twp        | Rng  | Mer | Sec | Q-Q   | GLot | Acres |
| 4 N        | 29 E | WM  | 7   | SW SW | 2    | 29.9  |

- Transfer Application T-10548 proposes to change the point of appropriation to a well approximately 6 miles southwest from the existing point of appropriation to:

| Twp | Rng  | Mer | Sec | Q-Q   | Survey Coordinates   |
|-----|------|-----|-----|-------|--|
| 3 N | 29 E | WM  | 15  | NW SW | 1520 FEET NORTH AND 540 FEET EAST FROM THE SW CORNER OF SECTION 15 |

- Transfer Application T-10548 proposes to change the character of use to commercial.
- Transfer Application T-10548 also proposes to change the place of use of the right to:

| COMMERCIAL USE |      |     |     |       |
|----------------|------|-----|-----|-------|
| Twp            | Rng  | Mer | Sec | Q-Q   |
| 3 N            | 29 E | WM  | 15  | NW SW |
| 3 N            | 29 E | WM  | 15  | SW SW |

- The transfer application map had a scrivener's error on the written location of the proposed point of appropriation. Specifically, the written *range* location on the map identified the proposed well being in Range 28E. However, the proposed point of appropriation *range* location in the transfer application and on the CWRE map drawing itself is shown to be in Range 29E.
- On April 7, 2008, the Department made a site visit to the authorized lands ("from" lands) and noted the grounds were apparently being prepared for irrigation. The authorized and proposed lands cannot both be irrigated with this water right during the same season. Therefore, should evidence suggest irrigation of "from" lands has occurred in 2008 under this water right, water use on the proposed lands ("to" lands) cannot begin until 2009.
- The use of irrigation is only authorized during the season of March 1 through November 30. The applicant has requested year round use. The duty is limited to an annual quantity not to exceed 89.7 acre feet, and will be further limited based on the allocation for Subarea A of the Stage Gulch Critical Groundwater Area for this water right. The rate will be prorated accordingly.
- Notice of the application for transfer was published on March 4, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

10. On June 9, 2008, the Department mailed a copy of the *draft* Preliminary Determination proposing to approve Transfer Application T-10548 to the applicant. The cover letter that accompanied the *draft* Preliminary Determination set forth a deadline of July 10, 2008, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination, but requested that the order be conditioned, as below, to allow the Department access to the well and flow meter upon reasonable notice, in order to satisfy the Department's needs to monitor the use in the Stage Gulch Critical Ground Water Area, and also to meet Home Land Security requirements. The applicant provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
11. On August 18, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10548 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 August 26, 2008, and in the East Oregonian newspaper on August 30 and September 6 and 13, 2008, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

12. 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.
13. 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-10548.
14. The proposed changes would not result in enlargement of the right as long as water is not used on both the authorized lands and the proposed lands during the same season.
15. The proposed changes would not result in injury to other water rights.

**Conclusions of Law**

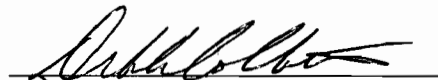
The changes in point of appropriation, place of use and character of use proposed in Transfer Application T-10548 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

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

1. The changes in use, place of use, and point of appropriation proposed in application T-10548 are approved.
2. Water right certificate 51220 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.

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 51220 and any related decree.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation, namely the basalt ground water source, and is restricted to the same subarea (A) of the Stage Gulch Critical Ground Water Area.
5. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation and shall be limited to a total volume of 89.7 acre-feet.
6. The former place of use of the transferred right shall no longer receive water under the right.
7. 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.
8. The water user shall allow the Department access to the meter or measuring device, provided however, where the meter or measuring device is located within a private structure, the Department shall request access upon reasonable notice.
9. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. 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.
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 15<sup>th</sup> day of October, 2008.

  
Phillip C. Ward, Director

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Mailing date: OCT 20 2008