

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

In the Matter of Transfer Application) FINAL ORDER APPROVING CHANGE
T-9546, Union County) IN POINT OF DIVERSION AND
) PLACE OF USE

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

Imbler Farms, LLC
P.O. Box 7
North Powder, OR 97867

Findings of Fact

1. Imbler Farms, LLC, filed an application to add an additional point of diversion under Certificate 58084 and to transfer the place of use and add an additional point of diversion under Certificate 58085. The Department assigned the application number T-9546.
2. The first right to be transferred is as follows:

Certificate: 58084 in the name of William and Florence Howell
Use: Irrigation
Priority Date: June 15, 1979
Quantity: 1.12 cfs
Rate/Duty: 1/40 cfs per acre from live flow, not to exceed 3.0 acre-feet per acre
Acres: 93.5
Source: Grande Ronde River and Old Channel Grande Ronde River Reservoir, tributary to Snake River

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Survey Coordinates
I	S	39	E	W.M.	28	NW	NW			720 feet S. & 50 feet E. from NW corner of Sec. 28

This is a final order in other than 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.

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Survey Coordinates
1	S	39	E	W.M.	28	SE NW			1380 feet S. & 1600 feet E. from NW corner of Sec. 28

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
1	S	39	E	W.M.	28	SW NE			39.0
1	S	39	E	W.M.	28	SE NE			37.0
1	S	39	E	W.M.	28	SE NW			17.5

3. Application T-9546 proposes to add a point of diversion to the right approximately 0.93 mile upstream in the Grande Ronde River to:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Survey Coordinates
1	S	39	E	W.M.	29	NW SE			1850' N. and 1630' W. from the SE Corner of Sec. 29

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

Certificate: 58085 in the name of William and Florence Howell
Use: Irrigation
Priority Date: June 15, 1979 and July 25, 1979
Quantity: 2.35 cfs (June 15, 1979) and 2.29 cfs (July 25, 1979)
Rate/Duty: 1/40 cfs per acre, not to exceed 3.0 acre-feet per acre
Acres: 185.5
Source: Grande Ronde River, tributary to Snake River

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Survey Coordinates
1	S	39	E	W.M.	29	NW SE			1850' N. and 1630' W. from the SE Corner of Sec. 29

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres	Modification
1	S	39	E	W.M.	28	SW NW			17.6	add POD
1	S	39	E	W.M.	28	SW NW			19.1	POU/ add POD
1	S	39	E	W.M.	28	NE SW			17.9	add POD
1	S	39	E	W.M.	28	NE SE			31.4	add POD
1	S	39	E	W.M.	28	NW SE			40.0	add POD
1	S	39	E	W.M.	28	SW SE			39.6	add POD
1	S	39	E	W.M.	28	SE SE			19.9	add POD

5. Application T-9546 proposes to add two points of diversion to the right approximately 1.2 miles and 0.93 mile downstream respectively, in the Grande Ronde River to:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Survey Coordinates
1	S	39	E	W.M.	28	NW NW			720 feet S & 50 feet E from NW corner of Sec 28
1	S	39	E	W.M.	28	SE NW			1380 feet S & 1600 feet E from NW corner of Sec 28

6. Application T-9546 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
1	S	39	E	W.M.	28	NE SE			1.1
1	S	39	E	W.M.	28	SE SE			18.0

7. 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.
8. 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.
9. A pump, pipeline, and sprinkler system 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. The proposed change would not result in injury to other water rights.

Conclusions of Law

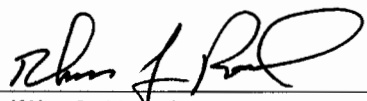
The proposed changes in point of diversion and place of use in application T-9546 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change(s) in point of diversion and place of use proposed in application T-9546 are approved.
2. Water right certificates 58084 and 58085 are cancelled. A new certificate will be issued describing that portion of the right evidenced by certificate 58084 not involved in 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 Certificates 58084 and 58085, and any related decree.
4. The proposed change 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. When required by the Department, 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.
8. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 24th day of MARCH, 2005.


Phillip C. Ward
Director

Mailing date: APR 05 2005