BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-11244, Clackamas County)	ADDITIONAL POINT OF
)	APPROPRIATION

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

U.S. BUREAU OF LAND MANAGEMENT 1717 FABRY ROAD SE SALEM, OR 97306

Findings of Fact

Background

1. On May 12, 2011, U.S. BUREAU OF LAND MANAGEMENT filed an application for an additional point of appropriation under Certificate 64135. The Department assigned the application number T-11244.

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

Certificate: 64135 in the name of U.S. BUREAU OF LAND MANAGEMENT

(perfected under Permit G-10361)

Use: IRRIGATION OF 5.0 ACRES

Priority Date: SEPTEMBER 29, 1984

Rate: 0.063 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured

under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of

each year.

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.

Source:

A WELL within the SALMON RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	7 E	WM	31	SE SW	331 FEET SOUTH AND 270 FEET WEST FROM THE NE CORNER OF THE SE'4 SW'4 OF SECTION 31

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres		
2 S	7 E	WM	31	SW NE	4.5		
2 S	7 E	WM	31	SE NE	0.5		

- 3. Certificate 64135 describes the authorized place of use as 4.5 acres in the SW¼ NE¼ and 0.5 acre in the SE¼ NE¼ of Section 31, Township 2 South, Range 7 East, West of W.M., Clackamas County, Oregon.
- 4. The map for Transfer Application T-10029 depicts the place of use under Certificate 64135 as being 3.7 acres in the SW¼ NE¼ and 1.3 acres of the SE¼ NE¼ of Section 31, Township 2 South, Range 7 East, West of W.M., Clackamas County, Oregon.
- 5. Based on how the Public Land Survey subdivisions overlie the surveyed area with the map prepared by the Certified Water Right Examiner, the Department concludes that the land to which the right has always been appurtenant should be re-described.
- 6. The following table describes the place of use description in existing Certificate 64135, and a proposed redescription based upon the findings above:

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Original Description of Place of Use under Certificate 64135			Proposed Redesc of	ription of Place Use	
	Q-Q	Acres	Q-Q	Estimated Acres	
	SW NE	4.5	SW NE	3.7	
	SE NE	0.5	SE NE	1.3	
	TOTAL:	5.0	TOTAL:	5.0	
	Section 31, Township 2 South, Range 7 East, W.M.				

7. Transfer Application T-11244 proposes an additional point of appropriation approximately 2800 feet from the existing point of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	7 E	WM	31	SE SW	609 FEET SOUTH AND 1370 FEET WEST OF THE N ¹ / ₁₆ CORNER OF SECTIONS 31 AND 32

8. Notice of the application for transfer was published on May 17, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

- 9. On July 1, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11244 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 26, 2011, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
- 10. On July 21, 2011, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11244 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 July 26, 2011, and in the Sandy Post Newspaper on August 24 and 31, and September 7, 2011, 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)

- 11. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 12. 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 Transfer Application T-11244.
- 13. The proposed change would not result in enlargement of the right.
- 14. The proposed change would not result in injury to other water rights.

Conclusions of Law

The additional point of appropriation proposed in Transfer Application T-11244 appears to be 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 additional point of appropriation proposed in Transfer Application T-11244 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 64135 and any related decree.
- 3. Water right certificate 64135 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
- 4. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.

- 5. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
- 6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
- 7. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2015**. 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 change and full beneficial use of the water.
- 8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 18 day of October 2011.

Dwight Forch, Water Right Services Administrator, for

PHILLIP C WARD, DIRECTOR

Mailing Date: 0CT 1 8 2011