

STATE OF OREGON

COUNTY OF CLACKAMAS

ORDER APPROVING CHANGES IN CHARACTER OF USE, PLACES OF USE  
AND POINTS OF APPROPRIATION

Pursuant to ORS 537.705, after notice was given and objections being resolved, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 7058 submitted by

BEACON HOMES, INC.  
KURT DALBEY  
1865 NW 169TH PLACE  
BEAVERTON, OREGON 97006.

The first right to be modified, as evidenced by Certificate 38514, was perfected under Permit G-4231 with a date of priority of JULY 16, 1968. The right allows the use of A WELL, a tributary of the SAUM CREEK (TUALATIN RIVER) BASIN, for IRRIGATION OF 60.4 ACRES. The right is limited to 0.31 cubic foot per second, if available at the original well; NW¼ NW¼, SECTION 31, T 2 S, R 1 E, WM; 1240 FEET SOUTH AND 790 FEET EAST FROM THE NW CORNER, SECTION 31, or its equivalent in case of rotation, measured at the well.

The second right to be modified, as evidenced by Certificate 45238, was perfected under Permit G-5705 with a date of priority of SEPTEMBER 8, 1972. The right allows the use of WILHELM FARMS WELL 2, a tributary of the SAUM CREEK (TUALATIN RIVER) BASIN, for IRRIGATION OF 8.4 ACRES AND SUPPLEMENTAL IRRIGATION OF 60.4 ACRES. The right is limited to 0.13 cubic foot per second, if available at the original well; NW¼ NW¼, SECTION 31, T 2 S, R 1 E, WM; 1240 FEET SOUTH AND 790 FEET EAST FROM THE NW CORNER, SECTION 31, or its equivalent in case of rotation, measured at the well.

The amount of water used for irrigation under these rights is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2½ acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is as follows:

	<u>PERMIT G-4231</u>	<u>PERMIT G-5705</u>	
	<u>PRIMARY</u>	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
NW¼ NW¼	20.1 ACRES	8.4 ACRES	20.1 ACRES
SW¼ NW¼	40.3 ACRES		40.3 ACRES

SECTION 31  
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described.

The applicant proposes to change the character of use of a portion of the rights from irrigation to NURSERY USE. The applicant proposes to consolidate portions of the water right so that the same quantity of water is appropriated for irrigation of fewer acres. The applicant proposes to change the point of appropriation to the following points of appropriation.

RECEIVING LANDOWNER:           CLAUDIA ROHR  
  ANDREWS & ROHR  
  22727 SW STAFFORD ROAD  
  TUALATIN, OREGON 97062

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION of 2.0 ACRES and NURSERY OPERATIONS ON 2.1 ACRES. The right would be limited to the amount actually beneficially used and not to exceed 0.046 cubic foot per second, being 0.020 CFS FOR IRRIGATION AND 0.026 CFS FOR NURSERY OPERATIONS, the total diversion would not exceed 15.49 ACRE-FEET, BEING 4.01 AF FOR IRRIGATION, provided the total quantity diverted for irrigation from both rights does not exceed 5.00 AF, AND 11.48 AF FOR NURSERY OPERATIONS.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 2.0 ACRES AND SUPPLEMENTAL NURSERY OPERATIONS ON 2.1 ACRES. The right would be limited to the amount actually beneficially used and not to exceed 0.012 cubic foot per second, being 0.005 cfs for SUPPLEMENTAL IRRIGATION and 0.007 cfs for SUPPLEMENTAL NURSERY OPERATIONS, the total diversion would not exceed 4.00 ACRE-FEET, BEING 1.00 AF FOR SUPPLEMENTAL IRRIGATION, provided the total quantity diverted for irrigation from both rights does not exceed 5.0 AF, AND 3.01 AF FOR SUPPLEMENTAL NURSERY OPERATIONS.

The proposed point of appropriation is in the SE¼ NE¼, SECTION 31, T 2 S, R 1 E, WM; 750 FEET NORTH AND 1170 FEET WEST FROM THE E¼ CORNER, SECTION 31.

The proposed place of use is:

	<u>IRRIGATION</u>	<u>NURSERY OPERATIONS</u>
SW¼ NE¼	1.9 ACRES	1.7 ACRES
SE¼ NE¼	0.1 ACRE	0.4 ACRE

SECTION 31  
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

RECEIVING LANDOWNER: K. THATCHER LOEN  
5205 SW SCHATZ ROAD  
TUALATIN, OREGON 97062

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for NURSERY OPERATIONS ON 3.2 ACRES. The right would be limited to the amount beneficially used, not to exceed 0.035 cubic foot per second, the total diversion would not exceed 16.21 acre feet.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL NURSERY OPERATIONS ON 3.2 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.009 cubic foot per second, the total diversion would not exceed 4.27 acre feet.

The proposed point of diversion is in the NW¼ NE¼, SECTION 31, T 2 S, R 1 E, WM; 1250 FEET SOUTH AND 640 FEET EAST FROM THE N¼ CORNER, SECTION 31.

The proposed place of use is:

NW¼ NE¼ 3.2 ACRES  
SECTION 31  
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

RECEIVING LANDOWNER: JACK HARPER  
5677 SW DELKER ROAD  
TUALATIN, OREGON 97062

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of THREE WELLS for IRRIGATION OF 7.1 ACRES. The right would be limited to the amount actually beneficially used and not to exceed 0.045 cubic foot per second, the total diversion would not exceed 13.77 acre-feet.

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The proposed points of diversion are in the SE¼ SW¼, SECTION 30, T 2 S, R 1 E, WM; 1 - 400 FEET NORTH AND 670 FEET WEST, 2 - 200 FEET NORTH AND 430 FEET WEST, 3- 520 FEET NORTH AND 120 WEST, ALL FROM THE S¼ CORNER, SECTION 30.

The proposed place of use is:

SE¼ SW¼            7.1 ACRES  
SECTION 30  
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

RECEIVING LANDOWNER:        JOHN G. ECKMANN  
5400 SCHATZ ROAD  
TUALATIN, OREGON 97062

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 1.0 ACRE. The right would be limited to the amount beneficially used and not to exceed 0.009 cubic foot per second, the total diversion would not exceed 2.50 ACRE FEET, provided the total quantity diverted under both rights does not exceed 4.75 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for IRRIGATION OF 0.9 ACRE AND SUPPLEMENTAL IRRIGATION OF 1.0 ACRE. The right would be limited to the amount actually beneficially used and not to exceed 0.010 cubic foot per second, being 0.008 cfs for irrigation and 0.002 cfs for supplemental irrigation, the total diversion would not exceed 3.17 acre feet, being 2.52 AF for irrigation and 0.65 AF for supplemental irrigation, provided the total quantity diverted under both rights permits does not exceed 4.75 AF.

The proposed point of appropriation is in the SW¼ NE¼, SECTION 31, T 2 S, R 1 E, WM; 1060 FEET NORTH AND 260 FEET WEST FROM THE CENTER OF SECTION 31.

The proposed place of use is:

	<u>PERMIT G-4231 PRIMARY</u>	<u>PERMIT G-5705</u>
<u>PRIMARY</u>	<u>PERMIT G-5705 SUPPLEMENTAL</u>	
SW¼ NE¼	1.0 ACRE	0.9 ACRE
	SECTION 31	
	TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.	

RECEIVING LANDOWNER: RANDY AND BARBARA LOVRE  
22250 SW 55TH AVENUE  
TUALATIN, OREGON 97062

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 5.0 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.041 cubic foot per second, the total diversion not to exceed 12.46 acre feet, provided the total diversion under both rights does not exceed 12.50 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 5.0 ACRES. The right would be limited to the amount actually beneficially use, not to exceed 0.010 cubic foot per second, the total diversion not to exceed 3.06 acre feet, provided the total diversion under both rights does not exceed 12.50 AF.

The proposed point of appropriation is in the NW $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 31, T 2 S, R 1 E, WM; 300 FEET SOUTH AND 180 FEET EAST FROM THE N $\frac{1}{4}$  CORNER, SECTION 31.

The proposed place of use is:

NW $\frac{1}{4}$  NE $\frac{1}{4}$  5.0 ACRES  
SECTION 31  
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

RECEIVING LANDOWNER: PETER KUSYK  
9500 SW 125TH AVENUE  
BEAVERTON, OREGON 97005

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 4.5 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.033 cubic foot per second, the total diversion would not exceed 10.12 acre feet, provided the total diversion under both rights does not exceed 11.25 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 4.5 ACRES. The right would be limited to the amount actually beneficially use, not to exceed 0.008 cubic foot per second, the total diversion would not exceed 2.49 acre feet, provided the total diversion under both rights does not exceed 11.25 AF.

The proposed point of appropriation is in the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 31, T 2 S, R 1 E, WM; 2420 FEET SOUTH AND 250 FEET EAST FROM THE NW CORNER, SECTION 31.

The proposed place of use is:

SW $\frac{1}{4}$  NW $\frac{1}{4}$  4.5 ACRES  
SECTION 31  
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

RECEIVING LANDOWNER: KURT DALBEY  
1865 NW 169TH PLACE  
BEAVERTON, OREGON 97006

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 5.0 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.033 cubic foot per second, the total diversion not to exceed 10.12 acre feet, provided the total diversion under both rights does not exceed 12.50 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 5.0 ACRES. The right would be limited to the amount actually beneficially use, not to exceed 0.008 cubic foot per second, the total diversion not to exceed 2.49 acre feet, provided the total diversion under both rights does not exceed 12.50 AF.

The proposed point of appropriation is the original well.

The proposed place of use is:

NW $\frac{1}{4}$  NW $\frac{1}{4}$  5.0 ACRES  
SECTION 31  
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

RECEIVING LANDOWNER: BEACON HOMES, INC.  
9500 SW 125TH AVENUE  
BEAVERTON, OREGON 97005  
(Subdivision lots 2, 3, 6, and 13)

LOT 6:

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 3.5 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.028 cubic foot per second, the total diversion would not exceed 8.56 acre feet, provided the total diversion under both rights does not exceed 8.75 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 3.5 ACRES. The right would be limited to the amount actually beneficially use, not to exceed 0.007 cubic foot per second, the total diversion would not exceed 2.11 acre feet, provided the total diversion under both rights does not exceed 8.75 AF.

The proposed point of appropriation is in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 31, T 2 S, R 1 E, WM; 200 FEET SOUTH AND 250 FEET EAST FROM THE NW CORNER, SECTION 31.

The proposed place of use is:

NW $\frac{1}{4}$  NW $\frac{1}{4}$             3.5 ACRES  
SECTION 31  
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

LOT 2:

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 4.2 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.028 cubic foot per second, the total diversion would not exceed 8.56 acre feet, provided the total diversion under both rights does not exceed 10.50 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 4.2 ACRES. The right would be limited to the amount actually beneficially use, not to exceed 0.007 cubic foot per second, the total diversion would not exceed 2.11 acre feet, provided the total diversion under both rights does not exceed 10.50 AF.

The proposed point of diversion is in the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 31, T 2 S, R 1 E, WM; 2000 FEET SOUTH AND 250 FEET EAST FROM THE NW CORNER, SECTION 31.

The proposed place of use is:

SW $\frac{1}{4}$  NW $\frac{1}{4}$  4.2 ACRES  
SECTION 31  
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

LOT 3:

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 4.1 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.028 cubic foot per second, the total diversion would not exceed 8.56 acre feet, provided the total diversion under both rights does not exceed 10.25 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 4.1 ACRES. The right would be limited to the amount actually beneficially use, not to exceed 0.007 cubic foot per second, the total diversion would not exceed 2.11 acre feet, provided the total diversion under both rights does not exceed 10.25 AF.

The proposed point of diversion is in the SW $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 31, T 2 S, R 1 E, WM; 1570 FEET SOUTH AND 250 FEET EAST FROM THE NW CORNER, SECTION 31.

The proposed place of use is:

SW $\frac{1}{4}$  NW $\frac{1}{4}$  4.1 ACRES  
SECTION 31  
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

LOT 13:

The proposed change for this portion of the right perfected under Permit G-4231 would allow the use of A WELL, for IRRIGATION OF 3.7 ACRES. The right would be limited to the amount actually beneficially used, not to exceed 0.028 cubic foot per second, the total diversion would not exceed 8.56 acre feet, provided the total diversion under both rights does not exceed 9.25 AF.

The proposed change for this portion of the right perfected under Permit G-5705 would allow the use of A WELL for SUPPLEMENTAL IRRIGATION OF 3.7 ACRES. The right would be limited to the amount actually beneficially use, not to exceed 0.007 cubic foot per second, the total diversion would not exceed 2.11 acre feet, provided the total diversion under both rights does not exceed 9.25 AF.

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The proposed place of use is:

SW¼ NW¼            3.7 ACRES  
SECTION 31  
TOWNSHIP 2 SOUTH, RANGE 1 EAST, W.M.

No specific injury which may be caused by the approval of this transfer application has been identified. However, the potential for interference may exist. The potential injury, if it should occur, may be eliminated by regulation of the interfering well. Therefore, the transfer application may be approved provided it contains a condition requiring the regulation of any well authorized by this transfer which causes interference with an existing well, existing at the time this transfer application is approved, appropriating water under an existing water right, and that interference is a result of the approved change.

THESE CHANGES TO EXISTING WATER RIGHTS MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USERS:

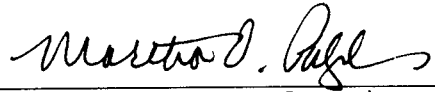
1. The proposed changes shall be completed on or before October 1, 1997.
2. The quantity of water diverted at the new points of appropriation (wells) shall not exceed the quantity of water lawfully available from the original point of appropriation, located in the NW¼ NW¼, SECTION 31, T 2 S, R 1 E, WM; 1240 FEET SOUTH AND 790 FEET EAST FROM THE NW CORNER, SECTION 31, or its equivalent in case of rotation, measured at the well.
3. Prior to using water, the water users shall install and maintain lockable headgates or valves and in-line flow meters, weirs, or other suitable devices for controlling, measuring and recording the quantity of water diverted. The type and plans of the headgates and measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
4. The water users shall record the quantity of water appropriated. The water users shall report the quantity of water appropriated to the Watermaster monthly, or more often if required.

5. If substantial or undue interference with an existing well used under an existing right, including existing exempt uses, occurs, and such interference can be shown to the satisfaction of the Department to result from the change in the way the water right is exercised as authorized herein, the use of water from the well authorized by this transfer causing the interference shall be regulated to mitigate the interference.
6. Water shall be acquired from the same aquifer as the original point of appropriation.
7. The former place of use shall no longer be irrigated as part of this water right.
8. The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of **containerized nursery plants**, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of **in ground nursery plants** the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre per year. The use of water for NURSERY OPERATIONS may be made at anytime of the year that the use is beneficial. For the irrigation of **any other crop**, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.
9. The amount of water used for IRRIGATION and SUPPLEMENTAL IRRIGATION, together with the amount secured under any other right existing on the same lands, is 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 2½ acre-feet per acre for each acre irrigated during the irrigation season of each year.
9. If extensions of time are necessary, each receiving landowner will need to file individual requests for extension of time.

Certificates 38514 and 45238 are cancelled. When satisfactory proof of the completed changes is received, new certificates confirming these water rights will be issued.

A request to reconsider the order approving Transfer Application 7058 was received. The Department has reconsidered the order. As a result, this order rescinds and supersedes orders of the Water Resources Director entered November 30, 1995 and December 22, 1995, at Special Order Volume 49, Page 437, and Page 474, approving Transfer Application 7058

WITNESS the signature of the Water Resources Director, affixed SEP 19 1996.



Martha O. Pagel, Director