

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-7947, Umatilla County	)	A CHANGE IN POINT OF
	)	APPROPRIATION

ORS 537.705 and 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.

**Applicants**

PATRICK & LAURA SOUZA	GARY & WYNETTE DALE
80973 ALPINE DRIVE	81005 ALPINE DRIVE
HERMISTON, OR 97838	HERMISTON, OR 97838

**Findings of Fact**

1. On March 3, 1998, Arne H. Pihl (original applicant) filed a transfer application to change the point of appropriation for two new subdivided tax lots under Certificate 81968. The Department assigned the application number T-7947.
2. Since Transfer T-7947 was originally filed, the land to which Certificate 81968 is appurtenant was sold several times, resulting in numerous assignments of the transfer application. The most recent assignees are as follows: Gary and Wynette Dale (Tax Lot 700); Patrick and Laura Souza (Tax Lot 702); and Gary and Irene Arsenault (Tax Lots 703 and 704).

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

**Certificate:** 81968 in the names of GARY & IRENE ARSENAULT, BEN & DEBBIE STARTT, and DENNIS A. CLARK (perfected under Permit G-11281)  
**Use:** IRRIGATION of 8.21 ACRES  
**Priority Date:** APRIL 25, 1991  
**Rate:** 0.103 CUBIC FOOT PER SECOND (CFS)  
**Limit/Duty:** ONE-EIGHTIETH of ONE CUBIC FOOT PER SECOND per acre, not to exceed 3.0 acre-feet per acre irrigated during the irrigation season of each year  
**Source:** A WELL within the UMATILLA RIVER BASIN

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.

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
5 N	28 E	WM	26	SW SE	560 FEET NORTH AND 60 FEET EAST FROM S¼ CORNER OF SECTION 26

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
5 N	28 E	WM	26	SW SE	700	4.33
5 N	28 E	WM	26	SW SE	702	3.88

4. Application T-7947 proposes to move the authorized point of appropriation for the above described lands approximately 300 feet north to Well#2 and approximately 500 feet north to Well#3 which are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Survey Coordinates
5 N	28 E	WM	26	SW SE	702 (Souza)	Well #2 - 830 FEET NORTH AND 180 FEET EAST FROM THE S¼ CORNER OF SECTION 26
5 N	28 E	WM	26	SW SE	700 (Dale)	Well #3 - 1060 FEET NORTH AND 70 FEET EAST FROM THE S¼ CORNER OF SECTION 26

5. Notice of the application for transfer was published on March 10, 1998, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
6. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

**Conclusions of Law**


The change in the point of appropriation proposed in application T-7947 is consistent with the requirements of ORS 537.705, ORS 540.505 to 540.580, and OAR 690-380-5000.

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

1. The change in point of appropriation proposed in Transfer Application T-7947 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 81968 and any related decree.

3. Water Right Certificate 81968 is cancelled. A new certificate will be issued describing that portion of the right evidenced by Certificate 81968 NOT affected by this transfer.
4. The source of water shall be acquired from the same aquifer (water source) as the original point of appropriation and shall be limited to the basalt aquifer below the depth of the alluvial gravels.
5. The quantity of water diverted at the new points of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.
6. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. 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.
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 change is received, a new certificate confirming the portion of the right transferred will be issued.

Dated at Salem, Oregon this 8<sup>th</sup> day of November 2006.

  
Phillip C. Ward, Director

Mailing date: NOV 15 2006