

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-6827, Josephine County)	SUBSTITUTION OF SUPPLEMENTAL
)	GROUNDWATER RIGHTS FOR PRIMARY
		SURFACE WATER RIGHT

ORS 540.524 establishes the process in which a water right holder may submit a request to substitute a supplemental water right from a ground water source for a primary water right from a surface water source. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating an application for a water right substitution.

Applicant

U.S. BUREAU OF LAND MANAGEMENT
3040 Biddle Road
MEDFORD OR 97504

Findings of Fact

1. On October 5, 1992 the U.S. Department of the Interior, Bureau of Land Management filed an application to substitute supplemental groundwater irrigation use under Certificates 39871 and 47288 for primary irrigation use under Certificate 39886. The Department assigned the application number T-6827. An amended application and map were submitted on April 28, 2003.
2. The portion of the first groundwater right to be substituted for the primary surface water right is as follows:

Certificate: 39871 in the name of U.S. BUREAU OF LAND MANAGEMENT (perfected under Permit G-4488)

Use: SUPPLEMENTAL IRRIGATION of 21.40 ACRES

Priority Date: JANUARY 15, 1969

Rate: 0.21 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.50 acre-feet per acre per year

Source: WELL #1 IN THE JUMP-OFF-JOE CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
35 S	6 W	WM	9	SE NW	120 FEET NORTH & 70 FEET WEST FROM THE CENTER OF SECTION 9

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a 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 Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	6 W	WM	9	SE NW	0.80
35 S	6 W	WM	9	NW SE	20.60

3. The portion of the second groundwater right to be substituted for the primary surface water right is as follows:

Certificate: 47288 in the name of U.S. BUREAU OF LAND MANAGEMENT (perfected under Permit G-5299)

Use: SUPPLEMENTAL IRRIGATION of 2.40 ACRES

Priority Date: NOVEMBER 19, 1970

Rate: 0.03 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.50 acre-feet per acre per year

Source: WELL #2 in the JUMP-OFF-JOE CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
35 S	6 W	WM	9	NW SE	230 FEET NORTH & 430 FEET WEST FROM THE SE CORNER OF THE NW¼ SE¼ OF SECTION 9

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	6 W	WM	9	NW SE	2.40

4. The portion of the surface water right to be changed from primary use to supplemental use under the substitution is as follows:

Certificate: 39886 in the name of U.S. BUREAU OF LAND MANAGEMENT (perfected under Permit S-33008)

Use: IRRIGATION of 23.80 ACRES

Priority Date: OCTOBER 20, 1967

Rate: 0.30 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 4.50 acre-feet per acre per year

Source: UNNAMED STREAM AND RESERVOIR CONSTRUCTED UNDER PERMIT R-5104, tributary to JUMP-OFF-JOE CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
35 S	6 W	WM	9	SE NW	120 FEET NORTH & 220 FEET WEST FROM THE CENTER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	6 W	WM	9	SE NW	0.80
35 S	6 W	WM	9	NW SE	23.00

5. 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.

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 rights are present.
8. The proposed change would not result in enlargement of the rights.
9. The proposed change would not result in injury to other water rights.

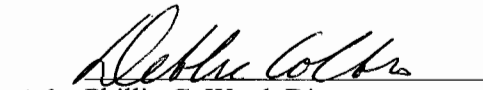
Conclusions of Law

The substitution of a supplemental groundwater right for a primary surface water right proposed in application T-6827 is consistent with the requirements of ORS 540.524, OAR 690-380-2330 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The substitution of a supplemental groundwater right for a primary surface water right proposed in application T-6827 is approved. The listed portion of the primary surface water right under Certificate 39886 shall be treated as a supplemental water right and the listed portions of the supplemental rights under Certificates 39871 and 47288 shall be treated as primary water rights.
2. The right to 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 39871, 47288, 39886 and any related decree.
3. The change shall be effective upon issuance of this order.
4. When required by the Department, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. 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.
5. The substitution of a supplemental ground water right for a primary surface water right approved under this order may be terminated upon a request by the water right holder or by an order of the Director if the Director determines that the use of the ground water as the primary water right causes injury. Upon termination, the substituted primary and supplemental water rights shall revert to their original status.

Dated at Salem, Oregon this 23rd day of December 2005.


 Phillip C. Ward, Director

Mailing Date DEC 28 2005