

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

In the Matter of Transfer Application) **FINAL ORDER APPROVING AN**
T-11675, 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

CHRIS AND KATHY SCHELLER
6061 SW MERIDIAN WAY
TUALATIN, OR 97062

Findings of Fact

1. On October 21, 2013, CHRIS AND KATHY SCHELLER filed an application for an additional point of appropriation under Certificate 62489. The Department assigned the application number T-11675.
2. Notice of the application for transfer was published on October 29, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 25, 2014, the Department contacted John Borden, the applicant’s agent, to notify him that a Land Use Information Form and approval is needed, and the authorized place of use description in the application is inaccurate.
4. On February 26, 2014 and February 27, 2014, the applicant’s agent submitted the items resolving the deficiencies.
5. On March 14, 2014, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11675 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 14, 2014, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate the applicants are authorized to pursue the transfer.

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.

6. On April 16, 2014, the Department issued a preliminary determination proposing to approve Transfer T-11675 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 April 22, 2014, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 62489 in the name of HARVEY A. OLDENSTADT (perfected under Permit G-9281)
Use: IRRIGATION ON 4.18 ACRES
Priority Date: MARCH 20, 1981
Rate: 0.02 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.
Source: WELL 1 within the TUALATIN RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	1 E	WM	31	SE NW	550 FEET NORTH AND 1850 FEET EAST FROM THE W1/4 CORNER OF SECTION 31

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	1 E	WM	31	SE NW	4.18

8. Transfer Application T-11675 proposes an additional point of appropriation approximately 250 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	1 E	WM	31	SE NW	352 FEET NORTH AND 1716 FEET EAST FROM THE W1/4 CORNER OF SECTION 31

Transfer Review Criteria (OAR 690-380-4010)

9. Water has been used within the last five years prior to the submittal of Transfer Application T-11675 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.

10. 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-11675.

11. The proposed change would not result in enlargement of the right.

12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Conclusions of Law

The additional point of appropriation proposed in Transfer Application T-11675 is 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-11675 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 62489 and any related decree.
3. Water right Certificate 62489 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. A totalizing flow meter or other suitable measuring device is not required at this time; however, when it becomes necessary in the future the Department may require one to be installed.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, 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. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 27 day of May, 2014.


Phillip C. Ward, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing date: MAY 28 2014

