

Authorized Place of Use:

Irrigation					
Twp	Rng	Mer	Sec	Q - Q	Acres
1 N	39 E	WM	26	NE NW	40.0
1 N	39 E	WM	26	NW NW	40.0
1 N	39 E	WM	26	SW NW	9.0
1 N	39 E	WM	26	SE NW	18.0
Total:					107.0

- Certificate 6371 does not describe the location of the point of diversion for this water use. However information is available from the Grande Ronde River adjudication map indicating that the current point of diversion on Indian Creek is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Description
1 N	39 E	WM	25	SW SW	HINDMAN SOMMER DITCH

- Transfer Application T-11447 proposes to change the point of diversion to reflect historical use approximately 3/4 mile downstream from the authorized point of diversion to:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
1 N	39 E	WM	26	SE NW	2170 FEET SOUTH AND 2000 FEET EAST FROM THE NW CORNER OF SECTION 26.

- Notice of the application for transfer was published in the Department's public notice pursuant to ORS 540.532, OAR 690-380-2120, and pursuant to OAR 690-380-4000. The Oregon Department of Fish and Wildlife did request inclusion of a condition requiring fish screening. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is currently equipped with an appropriate fish screening and/or by-pass device. No other comments were filed in response to the notice.

Transfer Review Criteria (ORS 540.532 and OAR 690-380-2120)

- Pursuant to OAR 690-380-2120(2)(a), evidence has been submitted that the actual, current point of diversion for the water right in question, as described in Finding of Fact #4 has been in use for more than 10 years.
- Pursuant to OAR 690-380-2120(2)(c), the Watermaster provided a statement that to his knowledge there has been no complaint of injury due to the use of water at the actual, current point of diversion, prior to the transfer request.
- Pursuant to OAR 690-380-2120(3), the Department provided the applicant a list of the affected water rights and a copy of the notice to be provided to each affected water right holder. The applicant has provided written proof of service of notice of the proposed transfer on all affected water right holders.

9. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available 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 are present.
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.

Conclusions of Law

The proposed change in point of diversion to reflect historical use in Transfer Application T-11447 is consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change proposed in Transfer Application T-11447 is approved and effective immediately.
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 6371 and any related decree.
3. Water right Certificate 6371 is cancelled. Certificates 88286 and 88287 will be issued to describe the change in point of diversion for the right included in Transfer Application T-11447 and shall supersede Certificate 6371.
4. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.
5. The water user shall maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted at the point of diversion. The flow meter or suitable measuring device must be approved by the Department.
6. The water user shall operate and maintain an approved fish screen at the point of diversion. If Oregon Department of Fish and Wildlife (ODFW) determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

Dated at Salem, Oregon this 8 day of May, 2013.


Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing date: MAY 16 2013