

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

In the Matter of Transfer Application T-6772, )  
Additional Point of Appropriation, )  
Klamath County )

FINAL ORDER

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**

JELD-WEN INC.  
401 HARBOR ISLES BLVD  
KLAMATH FALLS OR 97601

**Findings of Fact**

1. Jeld-Wen Inc. filed an application to add an additional point of appropriation under both Certificate 42736 (199.4 acres) and Permit G-10695 (306.2 acres). The Department assigned the application number T-6772.
2. On July 22, 2004, Certificate 80805 was issued for irrigation of 206.6 acres, thus only approximately two-thirds of the acreage requested in the transfer application under Permit G-10695 is subject to transfer.
3. The first right to be modified is as follows:  
**Certificate:** 42736 in the name of L.L. STEWART (perfected under Permit G-1790)  
**Use:** IRRIGATION of 199.4 ACRES  
**Priority Date:** MARCH 8, 1961  
**Rate:** 2.49 CFS  
**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 3 acre-feet per acre per year  
**Source:** Well in BUCK CREEK Basin (tributary to LOST RIVER Basin)

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in an uncontested 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
37 S	11.5 E	WM	15	SW SW	450 FEET NORTH & 390 FEET EAST OF THE SW CORNER, SECTION 15

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	11.5 E	WM	15	SW SW	17.4
37 S	11.5 E	WM	15	SE SW	0.1
37 S	11.5 E	WM	16	NE SE	0.3
37 S	11.5 E	WM	16	SE SE	3.6
37 S	11.5 E	WM	22	SW NE	13.6
37 S	11.5 E	WM	22	NE NW	17.2
37 S	11.5 E	WM	22	NW NW	22.8
37 S	11.5 E	WM	22	SW NW	1.1
37 S	11.5 E	WM	22	SE NW	28.4
37 S	11.5 E	WM	22	NE SW	40.0
37 S	11.5 E	WM	22	NW SW	7.6
37 S	11.5 E	WM	22	SE SW	13.2
37 S	11.5 E	WM	22	NE SE	0.3
37 S	11.5 E	WM	22	NW SE	32.8
37 S	11.5 E	WM	22	SW SE	1.0

4. Application T-6772 proposes to add two authorized points of appropriation approximately 1/2 mile from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
37 S	11.5 E	WM	22	SE NW	2000 FEET SOUTH AND 1710 FEET EAST OF THE NW CORNER, SECTION 22
37 S	11.5 E	WM	22	SW SE	850 FEET NORTH & 530 FEET EAST FROM S1/4 CORNER, SECTION 22

5. The second right to be modified is as follows:

**Certificate:** 80805 in the name of JELD WEN INC. (perfected under Permit G-10695)

**Use:** IRRIGATION of 206.6 ACRES

**Priority Date:** FEBRUARY 17, 1987

**Rate:** 2.59 CFS, being 1.16 CFS from Well 1, and 1.43 CFS from Well 2

**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 3 acre-feet per acre per year

**Source:** Two wells in BUCK CREEK Basin (tributary to LOST RIVER Basin)

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
37 S	11.5 E	WM	15	SW SW	450 FEET NORTH & 390 FEET EAST FROM SW CORNER, SECTION 15
37 S	11.5 E	WM	22	SW SE	850 FEET NORTH & 530 FEET EAST FROM S1/4 CORNER, SECTION 22

**Authorized Place of Use:**

Township	Range	Meridian	Sec	¼	¼	Acres
Well 1						
37	S	11.5	E	W.M.	15	NW SW 0.2
37	S	11.5	E	W.M.	15	SW SW 5.1
37	S	11.5	E	W.M.	16	SW NE 12.3
37	S	11.5	E	W.M.	16	SE NE 1.3
37	S	11.5	E	W.M.	16	SE NW 0.1
37	S	11.5	E	W.M.	16	NE SW 5.6
37	S	11.5	E	W.M.	16	NE SE 25.3
37	S	11.5	E	W.M.	16	NW SE 39.8
37	S	11.5	E	W.M.	16	SW SE 9.2
37	S	11.5	E	W.M.	16	SE SE 9.6
37	S	11.5	E	W.M.	22	SW NW 0.5
37	S	11.5	E	W.M.	22	SE NW 2.4
37	S	11.5	E	W.M.	22	NW SW 2.2
Well 2						
37	S	11.5	E	W.M.	22	NW SW 1.0
37	S	11.5	E	W.M.	22	SW SW 3.3
37	S	11.5	E	W.M.	22	SE SW 7.0
37	S	11.5	E	W.M.	22	NW SE 0.3
37	S	11.5	E	W.M.	22	SW SE 23.6
37	S	11.5	E	W.M.	22	SE SE 8.5
37	S	11.5	E	W.M.	26	NW NW 0.9
37	S	11.5	E	W.M.	26	SW NW 14.8
37	S	11.5	E	W.M.	26	NW SW 9.3
37	S	11.5	E	W.M.	27	NE NE 6.2
37	S	11.5	E	W.M.	27	NW NE 7.3
37	S	11.5	E	W.M.	27	SE NE 10.0
37	S	11.5	E	W.M.	27	NE NW 0.7
37	S	11.5	E	W.M.	27	NE SE 0.1

6. Application T-6772 proposes to add an authorized point of appropriation approximately ½ mile from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
37 S	11.5 E	WM	22	SE NW	2000 FEET SOUTH AND 1710 FEET EAST OF THE NW CORNER, SECTION 22

7. T-6772 requests that water from the new point of appropriation under Certificates 42736 and 80805 be linked in a common delivery system with the existing points of appropriation under those rights.

8. 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.
9. 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.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is 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 additional points of appropriation proposed in application T-6772 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

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

The changes proposed in T-6772 are approved; subsequent use of water shall be subject to the following conditions:

1. 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 Certificate 42736 and 80805 and any related decree.
2. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
3. The proposed change shall be completed on or before October 1, 2006.
4. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2007.
5. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.
6. 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.
7. Certificates 42736 and 80805 are cancelled; upon approval of a Claim of Beneficial Use, new certificates shall be issued to confirm the transferred rights.

Dated at Salem, Oregon this 7 day of January, 2005.

  
Phillip C. Ward, Director

Mailing date: 1-12-05