

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

In the Matter of Transfer Application)
T-11047, Umatilla County)
)
) FINAL ORDER APPROVING AN
) 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

FRED WIDMAN
2001 EAST GERONE
ECHO, OR 97826

Findings of Fact

Background

1. On March 29, 2010, FRED WIDMAN filed an application for two additional points of appropriation under Certificate 85272. The Department assigned the application number T-11047.
2. On August 11, 2010, modifications to the application were submitted, changing the proposed points of appropriation from two wells in Subarea H (as originally proposed) to one well in Subarea A of the Stage Gulch Critical Groundwater Area as shown below.
3. The right to be transferred is as follows:

Certificate: 85272 in the name of FRED WIDMAN (perfected under Permit G-5215)
Use: IRRIGATION of 7.66 ACRES
Priority Date: FEBRUARY 16, 1973
Rate: 0.06 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each

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.

acre irrigated, and shall be further limited to a diversion of not to exceed 3 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	29 E	WM	15	NE NW	1030 FEET SOUTH AND 1420 FEET EAST FROM THE NW CORNER OF SECTION 15

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	29 E	WM	15	NE NW	2.30
3 N	29 E	WM	15	NW NW	3.32
3 N	29 E	WM	15	SW NW	2.04

- Transfer Application T-11047 proposes to add an additional point of appropriation approximately 0.9 mile northwest from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	29 E	WM	9	SE SW	SEIBEL WELL: 380 FEET NORTH AND 3120 FEET WEST FROM THE SE CORNER OF SECTION 9

- Notice of the application for transfer was published on April 6, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On June 22, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11047 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 22, 2010, for the applicant to respond.
- On July 14, 2010, it came to the Department's attention that the proposed points of appropriation (which were actually the original points of appropriation for this right) are now in Subarea H of the Stage Gulch Critical Groundwater Area, whereas the currently authorized point of appropriation is in Subarea A. Since the subareas are managed separately, the Department cannot allow points of appropriation from more than one subarea in a water right.
- On July 14, 2010 the Department informed Fred Widman and his agent, Bill Porfily, of the new information and that the Department would not be able to approve the transfer as proposed. However, if the transfer application were to be modified to instead propose additional wells in Subarea A, the Department would consider whether the transfer might be approvable. On August 11, 2010, the applicant revised the transfer application and map to propose the Siebel well that is in Subarea A as the additional point of appropriation. The applicant requested that the Department proceed with issuance of a Preliminary

Determination and has provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

9. On September 10, 2010, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11047 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 September 14, 2010, and in the East Oregonian newspaper on September 18 and 25 and October 2, 2010, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

10. Water has been used within the last five years prior to the submittal of Transfer Application T-11047 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.
11. 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-11047.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.

Conclusions of Law

The additional point of appropriation proposed in Transfer Application T-11047 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

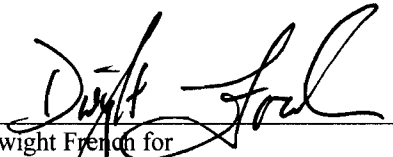
Now, therefore, it is ORDERED:

1. The additional point of appropriation proposed in Transfer Application T-11047 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 85272 and any related decree.
3. Water right Certificate 85272 is cancelled.
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. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
6. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. 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.

7. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 9 day of November 2010.


Dwight French for
PHILLIP C. WARD, DIRECTOR

Mailing date: NOV 16 2010