

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-9911, Umatilla County)	CHANGE FROM A SURFACE WATER
)	POINT OF DIVERSION TO A
)	GROUNDWATER POINT OF
)	APPROPRIATION

Authority

ORS 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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

JOHN O. AND LLOYDENE GRIFFITTS
104 HARRISON DRIVE
UMATILLA, OREGON 97882

Findings of Fact

1. On April 18, 2005, John O. and Lloydene Griffiths filed a transfer application to change the point of diversion for lands described under a portion of Certificate 48483 to a hydraulically connected well under OAR 690-380-2130. The Department assigned the application number T-9911.
2. On July 1, 2005, an amendment to the application and associated maps were submitted. The purpose of the amendment and maps was to more clearly identify the tax lots and the acres associated with them.
3. The portion of the right to be transferred is as follows:
Certificate: 48483, in the name of the Stanfield School District #61
Use: Irrigation of 2.2 acres

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order 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 137-004-080 and OAR 690-01-005 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.

Priority Date: June 16, 1971

Quantity: 0.03 cubic foot per second (cfs)

Rate & Duty: One-fortieth of one cfs per acre, limited to a diversion of not to exceed 4.5 acre-feet per acre irrigated during the irrigation season of each year

Source: Stanfield Drain, tributary to the Umatilla River

Authorized Point of Diversion:

TWP	RNG	MER	SEC	¼ ¼	Survey Coordinates
4 N	29 E	W.M.	32	NW SW	500 feet South and 200 feet West from the NE Corner of the NW¼ SW¼ of Section 32

Authorized Place of Use:

TWP	RNG	MER	SEC	¼ ¼	Acres
4 N	29 E	W.M.	32	NW SW	2.2

4. Transfer Application T-9911 proposes to change the point of diversion for the above described 2.2 acres (Tax Lot 1101), approximately 180 feet in a northwesterly direction to a shallow, hydraulically connected well located:

TWP	RNG	MER	SEC	¼ ¼	Survey Coordinates
4 N	29 E	W.M.	32	NW SW	300 feet South and 320 feet West from the NE Corner of the NW¼ SW¼ of Section 32

5. Notice of the application for transfer was published on May 17, 2005, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
6. On October 27, 2006, the Department issued a preliminary determination proposing to approve Transfer Application T-9911 and mailed a copy to the applicants. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on October 31, 2006, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the Department's weekly notice.
7. Water has been used within the last five years according to the terms and conditions of the right and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. A pump and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
9. Department staff hydrogeologists concluded that the proposed well meets all the requirements of ORS 540.531 and estimated that pumping of the well will result in a greater than 50 percent stream depletion in less than 10 days, thereby affecting the surface water source similarly to the authorized point of diversion, in accordance with OAR 690-380-2130(2)(c) and (11)(b).

10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change from a surface water point of diversion to a groundwater point of appropriation proposed in Transfer Application T-9911 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-2130 and 690-380-5000.

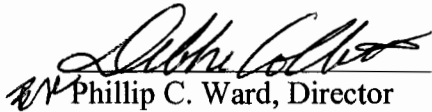
Now, therefore, it is ORDERED:

1. The change from a surface water point of diversion to a groundwater point of appropriation proposed in Transfer Application T-9911 is approved.
2. Water right Certificate 48483 is cancelled. A new certificate will be issued describing that portion of the right not modified in this transfer.
3. 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 48483 and any related decree.
4. The well from which water is taken under the right shall be constructed so that the use of the well will affect the surface water source similarly to the use of the original authorized point of diversion.
5. The use of water under this right shall be subject to regulation consistent with other water rights from the surface water source and to all other applicable conditions and restrictions that existed at the original point of diversion.
6. If, within five years after approval of the transfer, the Department finds that the transfer results in substantial or undue interference with an existing ground water right due to use of the pump, that would not have occurred in the absence of the transfer, the new point of appropriation shall be subordinate to the existing right injured by the transfer.
7. The original point of diversion of surface water shall not be retained as an additional or supplemental point of diversion under the transferred portion of the right. However, if within five years after approval of the transfer, the Department receives a transfer application to return to the last authorized surface water point of diversion, the application shall be approved.
8. The quantity of water diverted at the new point of diversion (shallow well) shall not exceed the quantity of water lawfully available at the original point of diversion.
9. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. A Claim of Beneficial Use prepared by a Certified Water

Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.

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

Dated at Salem, Oregon this 30 day of November, 2006.


Phillip C. Ward, Director

Mailing date: DEC 04 2006