

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

In the Matter of Transfer Application )  
T-9367, Marion 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**

Bizon Nursery  
17661 Boones Ferry Road NE  
Hubbard OR 97032

**Findings of Fact**

1. Bizon Nursery filed an application for an additional point of appropriation under Certificate 47637. The Department assigned the application number T-9367.
2. The application map was amended by the applicant on June 10, 2004.
3. The portion of the right to be modified is as follows:

**Certificate:** 47637 in the name of Leonard M. Bizon  
**Use:** Irrigation  
**Priority Date:** December 9, 1974  
**Quantity:** 1.15 cfs  
**Rate/Duty:** 1/80 cfs per acre, not to exceed 2½ acre-feet per acre per year  
**Acres:** 92.1  
**Source:** Well in the Mill Creek Basin

**Authorized Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼	DLC	Location
4	S	1	W	W.M.	32	NW SW	56	690' S & 620' E of the W¼ corner, Section 32

**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 137-004-080 and OAR 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order.

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		DLC	Acres
4	S	1	W	W.M.	31	SE	NE	56	1.3
4	S	1	W	W.M.	31	NE	SE	56	22.8
4	S	1	W	W.M.	31	NW	SE	56	0.1
4	S	1	W	W.M.	32	NE	SW	56	18.0
4	S	1	W	W.M.	32	NW	SW	56	22.0
4	S	1	W	W.M.	32	SW	SW	56	7.5
4	S	1	W	W.M.	32	SE	SW	56	20.4

4. Application T-9367 proposes to add an additional point of appropriation approximately 360 feet northwest of the existing point of appropriation:

Township		Range		Meridian	Sec	¼ ¼		DLC	Location
4	S	1	W	W.M.	32	NW	SW	56	Well #3 – 450 feet S & 340 feet E of the W¼ corner, Section 32

5. 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.
6. 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.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

The additional point of appropriation proposed in application T-9367 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

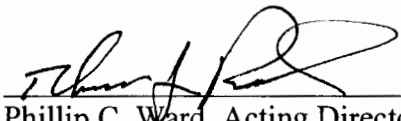
**Now, therefore, it is ORDERED:**

The additional point of appropriation proposed in T-9367 is approved, 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 47637 and any related decree.

2. Certificate 47637 is cancelled; Certificate 80647 shall be issued to describe the remaining rights NOT affected by this transfer.
3. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
4. The proposed change shall be completed on or before October 1, 2005.
5. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2006.
6. 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.
7. 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.
8. When satisfactory proof of the completed change is received, a new certificate confirming the transferred water rights shall be issued.

Dated at Salem, Oregon this 26<sup>th</sup> day of July, 2004.

  
Phillip C. Ward, Acting Director

Mailing date: JUL 28 2004