

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

In the Matter of Transfer Application)	FINAL ORDER
T-11642, Union County)	APPROVING A CHANGE IN POINTS
)	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

STUART H. AND LAURA S. SHOLUND
64760 AIRPORT LANE
LA GRANDE, OR 97850

Agent

GEORGE CHADWICK
909 MAIN AVE
LAGRANDE OR, 97850

Findings of Fact

1. On July 29, 2013, Stuart H. and Laura S. Sholund filed an application to change the points of appropriation under Certificate 88411. The Department assigned the application number T-11642.
2. Notice of the application for transfer was published on August 6, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 20, 2013, the Department sent a copy of the Draft Preliminary Determination proposing to approve Transfer Application T-11642 to the applicant. The Preliminary Determination cover letter set forth a deadline of December 18, 2013, for the applicant to respond. The applicant agent requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
4. On November 27, 2013, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11642 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on December 3, 2013, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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.

5. The portion of the right to be transferred is as follows:

Certificate: 88411 in the name of STUART H. AND LAURA S. SHOLUND (perfected under Permit G-12978)

Use: SUPPLEMENTAL IRRIGATION OF 147.3 ACRES

Priority Date: JANUARY 17, 1996

Rate: 1.84 CUBIC FEET 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 acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31, WHEN NECESSARY FOR SUPPLEMENTAL IRRIGATION

Source: WELL 2 within the GRANDE RONDE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	39 E	WM	30	NW NW	WELL 2 - 117 FEET SOUTH AND 646 FEET EAST FROM NW CORNER, SECTION 30

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Landowner Acres	
						Sholund	Union City
3 S	39 E	WM	30	NE NW	5103	4.4	
3 S	39 E	WM	30	NE NW	5103	30.9	
3 S	39 E	WM	30	NE NW	5104		0.9
3 S	39 E	WM	30	NW NW	5103	3.3	
3 S	39 E	WM	30	NW NW	5104		28.3
3 S	39 E	WM	30	NW NW	5103	2.3	
3 S	39 E	WM	30	NW NW	5103	0.8	
3 S	39 E	WM	30	SW NW	5103	37.7	
3 S	39 E	WM	30	SE NW	5103	38.7	

6. Transfer Application T-11642 proposes to move the authorized point of appropriation approximately 234 feet east to Well 3 and approximately 934 feet east to Well 4. The proposed points of appropriation are located at:

Twp	Rng	Mer	Sec	Q-Q	TAX LOT	Measured Distances
3 S	39 E	WM	30	NW NW	5103	WELL 3 - 105 FEET SOUTH AND 880 FEET EAST FROM NW CORNER, SECTION 30
3 S	39 E	WM	30	NE NW	5103	WELL 4 - 120 FEET SOUTH AND 1580 FEET EAST FROM NW CORNER, SECTION 30

Transfer Review Criteria (OAR 690-380-4010)

7. Water has been used within the last five years 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.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-11642.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in point of appropriation proposed in Transfer Application T-11642 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 change in point of appropriation proposed in Transfer Application T-11642 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 88411 and any related decree.
3. Water right certificate 88411 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The quantity of water diverted at the new points of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install totalizing flow meters, or, with prior approval of the Director, other suitable measuring devices at the new points of appropriation.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.

7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2015**. 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.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 15 day of January 2014.



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

JAN 24 2014

Mailing Date: _____