

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

In the Matter of Transfer Application)
T-10558, Marion County)
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)

SUPERSEDING FINAL ORDER
APPROVING AN ADDITIONAL POINT
OF APPROPRIATION AND
CORRECTING A SCRIVERNER’S
ERROR IN A PREVIOUS ORDER

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

DAVID AND REBECCA CAMPBELL
PO BOX 167
SILVERTON OR 97381

Findings of Fact

Background

1. On March 12, 2008, DAVID CAMPBELL filed an application for an additional point of appropriation under Certificate 80467. The Department assigned the application number T-10558.

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

- Certificate:** 80467 in the name of REBECCA CAMPBELL (perfected under Permit G-13148)
- Use:** IRRIGATION of 10.8 ACRES
- Priority Date:** JULY 26, 1996
- Rate:** 0.14 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 acre irrigated, and shall be further limited to a diversion of not to exceed 2.5

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-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH APRIL 30 FROM WELL 1 and MARCH 1 THROUGH OCTOBER 31 FROM WELL 2

Source: 2 WELLS within the BRUSH CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
6 S	1 W	WM	33	SW SW	45	WELL 1 - 1120 FEET NORTH AND 360 FEET EAST FROM THE SW CORNER OF SECTION 33
6 S	1 W	WM	33	SW SW	45	WELL 2 - 1180 FEET NORTH AND 350 FEET EAST FROM THE SW CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 W	WM	33	SW SW	45	10.8

- Transfer Application T-10558 proposes an additional point of appropriation approximately 1200 feet from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
6 S	1 W	WM	33	SW SW	45	WELL 3 - 20 FEET NORTH AND 355 FEET EAST FROM THE SW CORNER OF SECTION 33

- Notice of the application for transfer was published on MARCH 18, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On August 20, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10558 to the applicants. The draft Preliminary Determination set forth a deadline of September 21, 2009, for the applicants to respond. The applicants 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.
- On October 23, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10558 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 27, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
- On November 30, 2009 the Department issued a Final Order for the transfer, recorded at Special Order Volume 81, Pages 291 to 295. Shortly following issuance of the order the Department recognized a scrivener's error in the location of the proposed additional point of appropriation.

8. This order is issued to supersede the previous order recorded at Special Order Volume 81, Pages 291 to 295, and to correct the scrivener's error.
9. Groundwater production from the new point of appropriation (MARI 55878) shall only be from the basalt groundwater reservoir. Additionally, the initial water level to which subsequent water levels will be referenced is 23.70 feet below land surface. A water level measurement and water use reporting conditions are necessary for the new well as stipulated by OAR 690-502-0250.

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-10558 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-10558.
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-10558 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the scrivener's error in Special Order Volume 81, Pages 291 to 295 should be corrected in the record.

Now, therefore, it is ORDERED:

1. The order entered at Special Order Volume 81, Pages 291 to 295 is withdrawn and of no further force and effect and is superseded by this order.
2. The additional point of appropriation proposed in application T-10558 is approved.
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 80467 and any related decree.
4. Water right certificate 80467 is cancelled. Remaining right Certificate 85947 has been issued describing that portion of the right not affected by this transfer.
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. Water shall be acquired from the same aquifer, basalt groundwater aquifer, as the original point of appropriation.
7. Use of water from Well 3, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
8. For the purpose of determining declines, a reference level of 23.70 feet below land surface shall be used for Well 3.
9. The landowner/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in Well 3.
 - (a) A water level measurement shall be made each year during the period March 1 through March 31.
 - (b) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the landowner/appropriator.
 - (c) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
 - (d) The landowner/appropriator shall report the record of measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited in section 5 are evidenced by the well measurement required in section 7.
10. Measurement, recording and reporting conditions:
 - (a) Before water use may begin under this order, the water user shall install a totalizing flow meter or other suitable measuring device as approved by the Director at the new point of appropriation. The water user shall maintain the meter or measuring device in good working order.
 - (b) The water user shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the water user to report general water-use information, including the place and nature of use of water under the order.

- (c) The water user shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- (d) The Director may provide an opportunity for the water user to submit alternative measuring and reporting procedures for review and approval.

11. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. 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 change and full beneficial use of the water.

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

Dated at Salem, Oregon this 31 day of August 2010.


Phillip C. Ward, Director

Mailing date: SEP 02 2010