

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

In the Matter of Transfer Application T-9293,            )  
Change of Point of Appropriation,                    )  
Crook County    )  
  )

FINAL ORDER

ORS 540.505 to 540.580 establishes 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**

Kenneth D. and Janis A. Werth  
2490 SW Williams Road  
Powell Butte OR 97753

**Findings of Fact**

1. Kenneth D. and Janis A. Werth filed an application to change the point of appropriation under Certificate 76525. The Department assigned the application number T-9293.
2. Certificate 76525 was cancelled by T-9184; the remaining rights are confirmed by superseding Certificate 79681.
3. The portion of the right to be modified is as follows:

**Certificate:** 79681 in the name of Wampler & Werth Farms

**Use:** Irrigation

**Priority Date:** December 11, 1978 and December 28, 1978

**Quantity:** 0.02 cfs

**Acres:** 7.2

**Source:** Five wells in the Crooked River Basin

**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 Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼		Location
15	S	14	E	W.M.	11	SW	SE	980 feet N & 1950 feet W of SE corner Sec 11
15	S	14	E	W.M.	11	NE	SW	2550 feet N & 2550 feet E of SW corner Sec 11
15	S	14	E	W.M.	11	SW	NE	2060 feet S & 2600 feet W of NE corner Sec 11
15	S	14	E	W.M.	11	SW	SE	1090 feet N & 1480 feet E of SE corner Sec 11
15	S	14	E	W.M.	11	NE	SW	2370 feet N & 2550 feet E of SW corner Sec 11

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres	Priority Date
15	S	14	E	W.M.	11	SE	NE	1.6	December 11, 1978
15	S	14	E	W.M.	11	SE	NE	5.6	December 28, 1978

4. Application T-9293 proposes to move the point of appropriation for the right less than ¼ mile in the Crooked River Basin to:

Township		Range		Meridian	Sec	¼ ¼		Location
15	S	14	E	W.M.	11	SW	SE	1184 feet N & 1546 feet W of SE corner of Sec 11

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 delivery 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 change in point of appropriation proposed in application T-9293 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

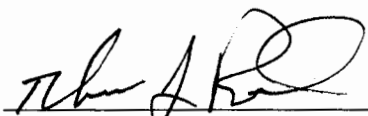
**Now, therefore, it is ORDERED:**

The change proposed in application T-9293 is approved, subject to the following conditions:

1. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.

2. 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 79681 and any related decree.
3. The proposed change shall be completed on or before October 1, 2005.
4. 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.
5. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available for this portion of the right at the original point of appropriation.
6. Prior to use of the transferred water, 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.
7. Certificate 79681 is cancelled; Certificate 80689 shall be issued to confirm the remaining rights.
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.

  
For Phillip C. Ward, Acting Director

Mailing date: JUL 30 2004