

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-11198, Morrow County)	CHANGES IN POINT OF
)	APPROPRIATION AND PLACE OF
)	USE

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

SAGE HOLLOW RANCH LLC
3620 INDEPENDENCE RD
SUNNYSIDE, WA 98944

Agent

RONALD V. MCKINNIS
MCKINNIS ENGINEERING
79980 PRINDLE LOOP ROAD
HERMISTON, OR 97838

Findings of Fact

Background

1. On February 14, 2011, Sage Hollow Ranch, LLC., filed an application to change the point of appropriation and place of use under Certificates 81577 and 82668. The Department assigned the application number T-11198.

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

Certificate: 81577 in the name of Glenn and Erin Chowning (perfected under Permit G-1322)

Use: Irrigation of 51.3 acres

Priority Date: March 11, 1959

Rate: 0.5 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

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.

irrigated, and shall be further limited to a diversion of not to exceed 3 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A well in the Columbia River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	26 E	WM	10	NE SW	1380 FEET NORTH AND 1320 FEET EAST FROM THE SW CORNER OF SECTION 10 (SHOWN ON CERTIFICATE 31194 AS 75 FEET NORTH AND 20 FEET EAST FROM THE CENTER OF SW1/4)

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	10	NE NW	5.7
3 N	26 E	WM	10	SW NW	13.7
3 N	26 E	WM	10	SE NW	31.9
Total:					51.3

3. Transfer Application T-11198 proposes to move the authorized point of appropriation approximately 6,600 feet to Well 1B and 8,600 feet to Well 2B from the existing point of appropriation to:

RATE	WELL #	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
0.29 CFS	WELL 1B	3 N	26 E	WM	4	NW SE	1390 FEET NORTH AND 2390 FEET WEST FROM THE SE CORNER OF SECTION 4
0.21 CFS	WELL 2B	3 N	26 E	WM	4	NE NE	840 FEET SOUTH AND 430 FEET WEST FROM THE NE CORNER OF SECTION 4

4. Certificate 81577 contains a scrivener's error. Certificate 81577 incorrectly identifies the total acres to be irrigated as 90.5 acres. The tabulation of acres listed in Certificate 81577 equals 90.6 acres. This error will be corrected when confirming and remaining certificates are issued after approval of this transfer.

5. Transfer Application T-11198 also proposes to change the place of use of the right to:

IRRIGATION						
WELL	Twp	Rng	Mer	Sec	Q-Q	Acres
WELL 2B	3 N	26 E	WM	4	NW NE	18.3
WELL 1B	3 N	26 E	WM	4	SW NE	4.6
WELL 1B	3 N	26 E	WM	4	SE NE	3.3
WELL 2B	3 N	26 E	WM	4	NE NW	3.5
WELL 1B	3 N	26 E	WM	4	SE NW	1.7
WELL 1B	3 N	26 E	WM	4	NE SW	3.4
WELL 1B	3 N	26 E	WM	4	NE SE	8.3
WELL 1B	3 N	26 E	WM	4	NW SE	8.2
Total:						51.3

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

Certificate: 82668 in the name of Sage Hollow Ranch LLC., (perfected under Permit S-45563)

Use: Supplemental irrigation of 51.3 acres
Priority Date: February 5, 1981
Rate: 0.44 cubic foot per second (cfs)
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-fortieth 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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year, provided further that although declared herein to be for supplemental irrigation in part the right allowed may, in the interest of conserving the ground water supplies, be exercised at times when water is available in the ground water supply provided that the total quantity diverted from all sources of supply does not exceed the limitation allowed herein.
Source: Columbia River, a tributary of the Pacific Ocean

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Gov't Lot	Measured Distances
4 N	25 E	WM	2	NE NW	7	150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	10	NE NW	5.7
3 N	26 E	WM	10	SW NW	13.7
3 N	26 E	WM	10	SE NW	31.9
Total:					51.3

7. Transfer Application T-11198 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	4	NW NE	18.3
3 N	26 E	WM	4	SW NE	4.6
3 N	26 E	WM	4	SE NE	3.3
3 N	26 E	WM	4	NE NW	3.5
3 N	26 E	WM	4	SE NW	1.7
3 N	26 E	WM	4	NE SW	3.4
3 N	26 E	WM	4	NE SE	8.3
3 N	26 E	WM	4	NW SE	8.2
Total:					51.3

8. Notice of the application for transfer was published on February 22, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. The Department has determined that the wells involved in Transfer Application T-11198 do not comply with current minimum well construction standards (OAR 690-210).

10. On June 14, 2012, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11198 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 16, 2012, for the applicant to respond. The applicant 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.
11. On September 11, 2012, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11198 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on September 18, 2012, and in the Heppner Gazette Times newspaper on October 24 and 31, and November 7, 2012, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

9. Water has been used within the last five years prior to the submittal of Transfer Application T-11198 according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-11198.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.

Conclusions of Law

The changes in point of appropriation and change in place of use proposed in Transfer Application T-11198 are 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 and change in place of use proposed in Transfer Application T-11198 are 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 Certificates 81577 and 82668 and any related decree.
3. Water right certificates 81577 and 82668 are cancelled. New certificates will be issued describing those portions of the rights 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 points of appropriation.

5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. The former place of use of the transferred right shall no longer receive water under the right.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2014**. 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 changes and full beneficial use of the water.
8. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 10 day of December, 2012



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