# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-10448, Deschutes County	)	CHANGE IN POINT 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**

TIMOTHY P. LARSON 69995 CAMP POLK ROAD SISTERS, OR 97759

# **Findings of Fact**

# Background

- 1. On August 27, 2007, Steve Keeton filed an application to change the point of appropriation under Certificate 83142. The Department assigned the application number T-10448.
- 2. On July 8, 2008, Transfer Application T-10448 was assigned from Steve Keeton to Timothy P. Larson.
- 3. The right to be transferred is as follows:

**Certificate:** 83142 in the name of STEVE KEETON (perfected under Permit G-10624)

Use: IRRIGATION of 10.56 ACRES

Priority Date: JANUARY 16, 1985

Rate: 0.13 CUBIC FOOT PER SECOND (CFS), if available at the original well

located in the NW ¼ NE ¼, Section 31, T. 15S, R. 11E, W.M.; being 80 feet

south and 2290 feet west from the NE corner of Section 31

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

Source: A WELL within the Deschutes River Basin

# Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
		<del></del>	2.5	000000	1272 PPPT COLUTI AND 1444 PPPT PACT EDOM
14 S	10 E	WM	35	SE NW	1372 FEET SOUTH AND 1446 FEET EAST FROM
					NW CORNER OF SECTION 35

#### **Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	10 E	WM	35	NE NW	10.18
14 S	10 E	WM	35	SE NW	0.38

4. Transfer Application T-10448 proposes to move the authorized point of appropriation approximately 18 feet south and 344 feet east from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates	
14 S	10 E	WM	35	SE NW	1390 FEET SOUTH AND 1790 FEET EAST FROM	
					THE NW CORNER OF SECTION 35	

- 5. Notice of the application for transfer was published on September 4, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 6. On May 7, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10448 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 10, 2009, 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, including a notarized affidavit consenting to the proposed transfer from the co-owner (Lori H. Larson) of the property to which water right Certificate 83142 is appurtenant.
- 7. On August 27, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10448 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 1, 2009, 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)

- 8. 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.
- 9. 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-10448.

- 10. The proposed change would not result in enlargement of the right.
- 11. 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-10448 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-10448 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 83142 and any related decree.
- 3. Water right certificate 83142 is cancelled.
- 4. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.
- 5. The Director may require the water user to install a totalizing a flow meter or other suitable measuring devices at each point of appropriation. If the Director notifies the water user to install totalizing flow meters or other measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices.
- 6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
- 7. 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.
- 8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem,	Oregon this 2nd day of October	2009.
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Phillip C. Ward, Director

Mailing date: \_\_\_\_\_ OCT 0 8 2009

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