

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

In the Matter of Transfer Application)
T-9711, to Substitute a Supplemental) FINAL ORDER
Ground Water Right for Primary Surface)
Water Right, Baker County, Oregon

ORS 540.524 establishes the process in which a water right holder may submit a request to substitute a supplemental water right from a ground water source for a primary water right from a surface water source. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating an application to substitute applications.

Applicant

Tony R. & Benita L. Britt
PO Box 966
Baker City, OR 97814

Findings of Fact

1. Tony R. & Benita L. Britt filed an application to substitute a supplemental right to use ground water under Permit G-13111 for a primary right to use surface water under Certificate 73527. The Department assigned the application number T-9711.
2. The portion of the supplemental ground water right to be substituted for the primary surface water right is as follows:

Permit: G-13111 in the name of Tony Britt
Use: Supplemental Irrigation
Priority Date: April 27, 1992
Quantity: 0.94 cfs
Rate/Duty: 1/80th cfs per acre, not to exceed 3.0 acre-feet per acre
Acres: 75.0
Source: Three sump well gravel pits, tributary to Baldock Slough Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Location
8	S	40	E	W.M.	34	NE	NE			
8	S	40	E	W.M.	34	NW	NE			

This is a final order in other than contested 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 Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
8	S	40	E	W.M.	34	SW	NW			40.0
8	S	40	E	W.M.	34	NW	SW			35.0

3. The portion of the surface water right to change from primary use to supplemental use under the substitution is as follows:

Certificate: 73527 in the name of William Poliman
Use: Irrigation
Priority Date: 1901
Quantity: 1.88
Rate/Duty: 1/40 cfs per acre, for each acre irrigated during the irrigation season of each year
Acres: 75.0
Source: Powder River, tributary of Snake River
Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Location
9	S	40	E	W.M.	16	SW	NW			Baldock Ditch - 1700 Feet South & 400 Feet East From NW Corner, Sec. 16

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
8	S	40	E	W.M.	35	SW	NW			40.0
8	S	40	E	W.M.	35	NW	SW			35.0

4. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000.
5. 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.
6. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing primary surface water right is present. and a pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing supplemental ground water right is present.
7. The proposed change would not result in enlargement of the right.
8. The proposed change would not result in injury to other water rights.

Conclusions of Law

The proposed substitution of use proposed in application T-9711 is consistent with the requirements of ORS 540.524 and OAR 690-380-5000.

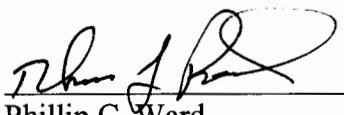
Now, therefore, it is ORDERED:

The substitution of a supplemental ground water right for a primary surface water right proposed in T-9711 is approved.

The change and subsequent use of water shall be subject to the following conditions:

1. 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 73527, Permit G-13111, and any related decree.
2. The proposed change shall be effective upon issuance of this order.
3. Prior to diverting water, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
4. The substitution of a supplemental ground water right for a primary surface water right may be terminated upon a request by the water right holder. The substitution also may be terminated by an order of the Director if the Director determines the use of the ground water as the primary water right causes injury to other water rights. Upon termination, the substituted primary and supplemental water rights shall revert to their original status.

Dated at Salem, Oregon this 30th day of July, 2004.



Phillip C. Ward
Acting Director