

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10788, Clackamas 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

CARL CASALE
RAMSAC LAND, LLC
1 WINDCASTLE DR
SAINT CHARLES, MO 63304

Agent

JAMES M. SCHUETTE
3000 MARKET ST NE, STE 510
SALEM, OR 97301

Findings of Fact

Background

1. On February 27, 2009, CARL CASALE, for Ramsac Land, LLC, filed an application for a change in point of appropriation under Certificate 38505. The Department assigned the application number T-10788.
2. On March 23, 2010, the applicant amended the transfer application to remove 6.3 acres described by Certificate 38505.
3. The right to be transferred is as follows:

Certificate: 38505 in the name of WALTER J. NEUBERT (perfected under Permit G-3488)
Use: IRRIGATION of 16.2 ACRES
Priority Date: SEPTEMBER 23, 1966
Rate: 0.2 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each

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 irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the WILLAMETTE RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	1 W	WM	26	NW SW	42	WELL 1 (CLAC 8602) - 1920 FEET NORTH AND 1110 FEET EAST FROM THE SW CORNER OF SECTION 26

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	1 W	WM	26	NW SW	42	16.2

- Transfer Application T-10788 proposes a new point of appropriation approximately 1100 feet northwest from the existing point of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	1 W	WM	26	SW NW	WELL 2 - 2675 FEET NORTH AND 352 FEET EAST FROM THE SW CORNER OF SECTION 26

- Notice of the application for transfer was published on March 10, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On January 7, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10788 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 6, 2010 for the applicant to respond. The applicant amended the application and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
- On March 26, 2010, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10788 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 April 20, 2010, 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)

- 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.
- 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-10788.
- The proposed change would not result in enlargement of the right.

11. The proposed change would not result in injury to other water rights.

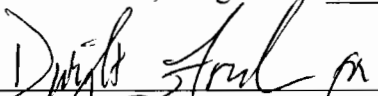
Conclusions of Law

The change in point of appropriation proposed in Transfer Application T-10788 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-10788 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 38505 and any related decree.
3. Water right certificate 38505 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
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. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at the new point of appropriation.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
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 Right 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 30 day of April 2010.


Phillip C. Ward, Director

Mailing Date: MAY 03 2010