

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-11254, Umatilla County)	ADDITIONAL POINT OF
)	APPROPRIATION AND CHANGE IN
)	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

IVAN COOK
1870 S 1ST STREET
HERMISTON, OR 97838

Agent

DR. PAUL WATTENBURGER
505 E MAIN ST
HERMISTON, OR 97838

Findings of Fact

Background

1. On June 2, 2011, IVAN COOK filed an application to change the point of appropriation and to change the place of use under Certificate 79889. The Department assigned the application number T-11254.
2. On September 13, 2011, the agent submitted an amended application map clarifying that the transfer was for an additional point of appropriation.
3. The portion of the right to be transferred is as follows:

Certificate: 79889 in the name of VERNON AND IVAN COOK (perfected under Permit G-7183)

Use: IRRIGATION OF 39.3 ACRES

Priority Date: FEBRUARY 25, 1977

Rate: 0.49 CUBIC FOOT PER SECOND

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.

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 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: WELL 3 within the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	28 E	WM	23	SW NE	WELL 3 - 1350 FEET SOUTH AND 1330 FEET WEST FROM THE NE CORNER OF SECTION 23

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of Change Proposed
4 N	28 E	WM	23	NW NE	11.4	APOA and POU
4 N	28 E	WM	23	SW NE	12.1	APOA
4 N	28 E	WM	23	SW NE	10.3	APOA and POU
4 N	28 E	WM	23	SE NE	5.5	APOA and POU
TOTAL:					39.3	

APOA means additional point of appropriation
POU means place of use

4. Transfer Application T-11254 proposes an additional point of appropriation approximately 2720 feet South and 470 feet West from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	28 E	WM	23	SW SE	WELL 1 - 1210 FEET NORTH AND 1800 FEET WEST FROM THE SE CORNER OF SECTION 23

5. In addition to proposing an additional point of appropriation, Transfer Application T-11254 also proposes to change the place of use of a portion of the water right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of Change Proposed	Tax Lot
4 N	28 E	WM	23	SW NE	12.1	APOA	200
4 N	28 E	WM	23	SW NE	4.9	APOA and POU	200
4 N	28 E	WM	23	NE SW	8.3	APOA and POU	200
4 N	28 E	WM	23	SE SW	6.7	APOA and POU	200
4 N	28 E	WM	23	NE SE	7.0	APOA and POU	200
4 N	28 E	WM	23	NW SE	0.3	APOA and POU	200
TOTAL:					39.3		

6. Notice of the application for transfer was published on June 7, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On September 13, 2011, Department staff met with the agent and hand delivered copy of the Draft Preliminary Determination proposing to approve Transfer Application T-11254. On September 29, 2011, 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.

8. On October 7, 2011, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11254 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 October 11, 2011, and in the Hermiston Herald newspaper on October 29, November 5 and November 12, 2011, pursuant to ORS 540.520 and OAR 690-380-4020.
9. On November 10, 2011, Hale Farms, LLC timely submitted a Protest of the Preliminary Determination. No other timely protests were received by the Department.
10. On December 12, 2011, Hale Farms, LLC withdrew its protest of the Preliminary Determination.
11. On December 20, 2011, the agent verified that an additional point of appropriation for 12.1 acres proposed in the transfer application had been inadvertently omitted from the Preliminary Determination. The additional point of appropriation for the 12.1 acres is now included in this order.

Transfer Review Criteria (OAR 690-380-4010)

12. 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.
13. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-11254.
14. The proposed changes would not result in enlargement of the right.
15. The proposed changes would not result in injury to other water rights.

Conclusions of Law

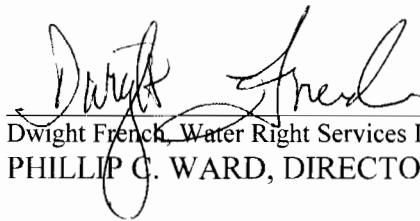
The additional point of appropriation and place of use proposed in Transfer Application T-11254 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. The application is approved pursuant to the terms and conditions below.

Now, therefore, it is ORDERED:

1. The additional point of appropriation and change in place of use proposed in Transfer Application T-11254 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 Certificate 79889 and any related decree.
3. Transfers T-11254, T-11255 and T-11256 all modify water right certificate 79889. Certificate 79889 will be cancelled upon issuance of the final orders for these transfers. A new certificate will be issued describing those portions of the right not affected by these transfers.
4. The quantity of water diverted at the new point of appropriation, together with the additional point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
7. The former place of use of the transferred right shall no longer receive water under the right.
8. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**. 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.
9. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 5 day of January, 2012.



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

Mailing Date: JAN 09 2012