

deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

Source: Well 2 within the Silvies River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
23 S	31 E	WM	6	SE NE	80 feet North and 50 feet West from the E $\frac{1}{4}$ Corner of Section 6

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
23 S	31 E	WM	6	SE NE	1100	5.00
23 S	31 E	WM	6	SE NE	1101	7.42

- Certificate 39765 describes the authorized point of appropriation inaccurately. The final proof survey map for Certificate 39765 inaccurately shows the meets and bounds location for the authorized point of appropriation on the quarter-quarter line. Stanclift Lane, which is described on the transfer application map for T-10846, is not on the quarter-quarter line, according to the Public Land Survey System. GPS coordinates were also taken on May 13, 2009, which confirmed the correct location of the point of appropriation which is located at:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
23 S	31 E	WM	6	SE NE	160 feet North and 50 feet West from the E $\frac{1}{4}$ Corner of Section 6

- The portion of the primary surface water right to be used as a supplemental right under the substitution with Certificate 39765 is as follows:

Decree Number: DN-919850 in the name of Gustav A Rembold (confirmed by Silvies River; 1926)

Use: Irrigation of 12.42 acres

Priority Date: 1885

Source: Silvies R, tributary to Malheur Lake

Authorized Point of Diversion:

Ditch Name
Rembold Dam Ditch and Slough

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
23 S	31 E	WM	6	SE NE	1100	5.00
23 S	31 E	WM	6	SE NE	1101	7.42

- Notice of the substitution was published on October 29, 1996 pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
- Water has been used within the five years prior to filing of the application according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

7. The proposed change would not result in enlargement of the rights.
8. The proposed change would not result in injury to other water rights.


Conclusions of Law

The substitution of a portion of a supplemental ground water right for a portion of a primary surface water right proposed in application T-10846, is consistent with the requirements of 540.524, OAR 690-380-2300 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The substitution of a portion of a supplemental ground water right for a portion of a primary surface water right proposed in application T-10846 is approved and shall be effective upon issuance of this order.
2. **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 each point of appropriation.**
 - b. **The water user shall maintain the meter or measuring devices in good working order.**
 - c. **The water user shall allow the Watermaster access to the meter or measuring devices; provided however, where the meter or measuring device are located within a private structure, the Watermaster shall request access upon reasonable notice.**
3. 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 39765 and DN-919850, of the Silvies River Decree.
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 or by 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 15th day of September 2009.


Phillip C. Ward, Director *rw*

Mailing date: SEP 21 2009