# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-6826, Josephine County	)	CHANGE IN PLACE OF USE,
	)	CHARACTER OF USE AND PARTIAL
	)	CANCELLATION OF WATER RIGHTS

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**

US Department of the Interior Bureau of Land Management 3040 Biddle Road, Medford, OR 97504

## **Findings of Fact**

- On October 5, 1992 the U.S. Department of the Interior, Bureau of Land Management, filed an application to change the character of use under Certificates 39885 and 39887. The Department assigned the application number T-6826. On April 28, 2003 a revised application was submitted, adding a place of use change, and including additional Certificates 39871 and 39886 in the application. Affidavits requesting partial cancellation of the rights under Certificates 39871, 39886, 39888 and 47288 were also submitted.
- 2. The portion of the first right to be transferred is as follows:

Certificate: 39886 in the name of U.S. BUREAU OF LAND MANAGEMENT (perfected

under Permit S-33008)

Use: IRRIGATION of 6.50 ACRES Priority Date: OCTOBER 20, 1967 Rate: 0.08 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 4.50 acre-feet per acre per year

(total of 29.25 ACRE FEET)

## NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a 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 137-004-0080, you may either 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.

Source: UNNAMED STREAM AND RESERVOIR CONSTRUCTED UNDER PERMIT R-5104, tributary to JUMP-OFF-JOE CREEK

### **Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
35 S	6 W	WM	9	SE NW	120 FEET NORTH & 220 FEET WEST FROM
					THE CENTER OF SECTION 9

## **Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	6 W	WM	9	NW SE	6.50

3. Application T-6826 proposes to change the character of use of the above portion of the right under Certificate 39886 to Reservoir (Pond) Maintenance, and to change the place of use to the reservoir constructed under Permits R-5104 and R-5413:

Twp	Rng	Mer	Sec	Q-Q
35 S	6 W	WM	9	SE NW

4. The portion of the second right to be transferred is as follows:

Certificate: 39871 in the name of U.S. BUREAU OF LAND MANAGEMENT (perfected

under Permit G-4488)

Use: SUPPLEMENTAL IRRIGATION of 6.50 ACRES

Priority Date: JANUARY 15, 1969 Rate: 0.06 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.50 acre-feet per acre per year

(total of 16.25 acre-feet)

Source: WELL #1 IN THE JUMP-OFF-JOE CREEK BASIN

## **Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
35 S	6 W	WM	9	SE NW	120 FEET NORTH & 70 FEET WEST FROM THE
					CENTER OF SECTION 9

## **Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	6 W	WM	9	NW SE	6.50

5. Application T-6826 proposes to change the character of use of the above portion of the right under Certificate 39871 to Reservoir (Pond) Maintenance and to change the place of use to the reservoir constructed under Permits R-5104 and R-5413:

Twp	Rng	Mer	Sec	Q-Q
35 S	6 W	WM	9	SE NW

6. The third right to be transferred is as follows:

Certificate: 39885 in the name of U.S. BUREAU OF LAND MANAGEMENT (perfected

under Permit R-5104)

Use: STORAGE FOR IRRIGATION USE **Priority Date:** OCTOBER 20, 1967

**Quantity: 4.72 ACRE FEET** 

Source: UNNAMED STREAM, tributary to JUMP-OFF JOE CREEK

Authorized Place of Use (MERLIN SEED ORCHARD RESERVOIR, currently known as Charles A. Sprague Seed Orchard Reservoir, or Lake CASSO):

Twp	Rng	Mer	Sec	Q-Q
35 S	6 W	WM	9	SE NW

- 7. Application T-6826 proposes to change the character of use of the right under Certificate 39885 to Multi-purpose storage.
- 8. The fourth right to be transferred is as follows:

Certificate: 39887 in the name of U.S. BUREAU OF LAND MANAGEMENT (perfected

under Permit R-5413)

Use: STORAGE FOR SUPPLEMENTAL IRRIGATION USE

**Priority Date:** JANUARY 15, 1969

**Quantity: 11.50 ACRE FEET** 

Source: UNNAMED STREAM, tributary to JUMP-OFF-JOE CREEK

Authorized Place of Use (MERLIN SEED ORCHARD RESERVOIR, currently known as Charles A. Sprague Seed Orchard Reservoir, or Lake CASSO):

	Twp	Rng	Mer	Sec	Q-Q
İ	35 S	6 W	WM	9	SE NW

- 9. Application T-6826 proposes to change the character of use of the right under Certificate 39887 to Multi-purpose storage.
- 10. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
- 11. Water has been used within the last five years 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.
- 12. Pumps, pipelines, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights are present.
- 13. The proposed changes would not result in enlargement of the rights.
- 14. The proposed changes would not result in injury to other water rights.

# Partial Cancellation of Water Rights

- 15. Affidavits requesting partial cancellation of water rights were received on April 28, 2003 from Mary L. Smelcer, BLM Medford District Manager as follows.
- 16. The portion of the first right to be cancelled is:

Certificate: 39871 in the name of U.S. BUREAU OF LAND MANAGEMENT (perfected

under Permit G-4488)

Use: SUPPLEMENTAL IRRIGATION of 3.2 ACRES

**Priority Date:** JANUARY 15, 1969 **Rate:** 0.03 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.50 acre-feet per acre per year

Source: WELL #1 IN THE JUMP-OFF-JOE CREEK BASIN

**Authorized Point of Appropriation:** 

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
35 S	6 W	WM	9	SE NW	120 FEET NORTH & 70 FEET WEST FROM THE CENTER OF SECTION 9

## **Authorized Place of Use to be Cancelled:**

Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	6 W	WM	9	NW SE	3.20

17. The portion of the second right to be cancelled is:

Certificate: 39886 in the name of U.S. BUREAU OF LAND MANAGEMENT (perfected

under Permit S-33008)

Use: IRRIGATION of 3.2 ACRES
Priority Date: OCTOBER 20, 1967
Process 20 Add Children Control Per Second

Rate: 0.04 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 4.50 acre-feet per acre per year Source: UNNAMED STREAM AND RESERVIOR CONSTRUCTED UNDER PERMIT

R-5104, tributary to JUMP-OFF-JOE CREEK

## **Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
35 S	6 W	WM	9	SE NW	120 FEET NORTH & 220 FEET WEST FROM
					THE CENTER OF SECTION 9

#### Authorized Place of Use to be Cancelled:

Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	6 W	WM	9	NW SE	3.20

18. The portion of the third right to be cancelled is:

Certificate: 39888 in the name of U.S. BUREAU OF LAND MANAGEMENT (perfected

under Permit S-34095)

Use: SUPPLEMENTAL IRRIGATION of 3.2 ACRES

Priority Date: JANUARY 15, 1969

**Quantity:** 1.1 ACRE FEET

Source: RESERVOIR CONSTRUCTED UNDER PERMIT R-5413, tributary to JUMP-

OFF-JOE CREEK

#### **Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates	
35 S	6 W	WM 9 SE NW		SE NW	120 FEET NORTH & 220 FEET WEST FROM	
					THE CENTER OF SECTION 9	

Authorized Place of Use to be Cancelled:

Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	6 W	WM	9	NW SE	3.20

19. The portion of the fourth right to be cancelled is:

Certificate: 47288 in the name of U.S. BUREAU OF LAND MANAGEMENT (perfected

under Permit G-5299)

Use: SUPPLEMENTAL IRRIGATION of 0.60 ACRE

**Priority Date:** NOVEMBER 19, 1970 **Rate:** 0.01 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.50 acre-feet per acre per year

Source: WELL #2 in the JUMPOFF JOE CREEK BASIN

Authorized Point of Appropriation:

•			OI	ppi opi metom					
	Twp	Rng	Mer	er Sec Q-Q		Survey Coordinates			
	35 S	6 W	WM	9	NW SE	230 FEET NORTH & 430 FEET WEST FROM THE			
					·	SE CORNER OF THE NW¼ SE¼, SECTION 9			

Authorized Place of Use to be Cancelled:

Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	6 W	WM	9	NW SE	0.60

## **Conclusions of Law**

The changes in character of use and place of use proposed in application T-6826 are consistent with the requirements of ORS 537.705, 540.505 to 540.580, and OAR 690-380-5000. The requests for voluntary cancellation of water rights listed in Findings of Fact #15 through #19 are authorized under ORS 540.621.

## Now, therefore, it is ORDERED:

- 1. The changes proposed in T-6826 are approved.
- 2. Water right certificates 39886, 39871, 39885 and 39887 are cancelled.

- 3. The right to 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 39871, 39885, 39886, 39887 and any related decree.
- 4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2007.** 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 changes and full beneficial use of the water.
- 5. The former place of use of the transferred water shall no longer receive water as part of these rights.
- 6. When required by the Department, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
- 7. The portions of Certificates 39871, 39886, 39888 and 47288 listed in Findings of Fact #15-#19 are cancelled.
- 8. New certificates will be issued describing the portions of the rights evidenced by Certificates 39886, 39871, 39888 and 47288 not transferred or cancelled by this order.
- 9. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 22 day of Johnson	2006.
Delhi Colles	

Phillip C. Ward, Director

Mailing Date FEB 2 7 2006