

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

In the Matter of Transfer Application) FINAL ORDER APPROVING AN
T-10761, Deschutes County) ADDITIONAL POINT OF
) APPROPRIATION AND A 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

SHANE LUNDGREN
1675 SW MARLOW SUITE 340
PO BOX 3500, SISTERS OR 97759

Findings of Fact

Background

1. On December 23, 2008, SHANE LUNDGREN filed an application for an additional point of appropriation and a change in place of use for a portion of the right under Certificate 80808. The Department assigned the application number T-10761.
2. On March 25, 2009, an amended application and map were received, including updated information and removing one of the originally proposed wells.
3. The portion of the right to be transferred is as follows:

Certificate: 80808 in the name of DUTCH PACIFIC PROPERTIES (perfected under Permit G-13492)
Use: IRRIGATION of 10 ACRES
Priority Date: MARCH 18, 1998
Rate: 0.12 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, is limited to a diversion of

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.

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 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL in the WHYCHUS CREEK SUB-BASIN (FORMERLY SQUAW CREEK SUB-BASIN)

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	10 E	WM	4	SE NW	326 FEET NORTH AND 180 FEET WEST FROM THE C1/4 CORNER OF SECTION 4

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	10 E	WM	4	SE NW	10.0

4. Transfer Application T-10761 proposes an additional point of appropriation approximately 1.89 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	10 E	WM	15	NE NW	80 FEET SOUTH AND 180 FEET WEST FROM THE N1/4 CORNER OF SECTION 15

5. Transfer Application T-10761 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	10 E	WM	15	NE NW	10.0

6. Notice of the application for transfer was published on JANUARY 13, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On May 5, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10761 to the applicant. The Preliminary Determination set forth a deadline of June 5, 2009, for the applicant to respond. 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 July 21, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10761 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 July 28, 2009, and in The Bulletin newspaper on July 24 and 31 and August 7, 2009, 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)

9. Water has been used within the last five years prior to the submittal of Transfer Application T-10761 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.
10. 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-10761.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

Conclusions of Law

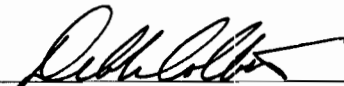
The additional point of appropriation and change in place of use proposed in Transfer Application T-10761 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional point of appropriation and change in place of use proposed in application T-10761 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 80808 and any related decree.
3. Water right certificate 80808 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
6. Prior to diverting water, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. 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. The water user shall maintain and operate the measuring device as required by the Department.

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, 2010**. 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.
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 15th day of September 2009.



Phillip C. Ward, Director *PCW*

Mailing date: SEP 21 2009