

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

In the Matter of Transfer Application            )  
T-10720, Marion County                            )  
  )  
  )     FINAL ORDER APPROVING  
  )     CHANGES IN POINT OF  
  )     APPROPRIATION AND 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**

WALTER E. LIERMAN  
8127 NUTMEG ST NE  
SALEM OR 97305

**Findings of Fact**

**Background**

1. On October 31, 2008, WALTER (WALLY) LIERMAN filed an application to change the point of appropriation and place of use, under Certificate 30705. The Department assigned the application number T-10720.
2. The portion of the right to be transferred is as follows:

**Certificate:** 30705 in the name of ALBERT J. HASLEBACHER (perfected under Permit G-1076)

**Use:** IRRIGATION of 10 ACRES

**Priority Date:** SEPTEMBER 9, 1958

**Rate:** 0.10 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year

**Source:** A WELL in the LITTLE PUDDING RIVER BASIN

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.

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	2 W	WM	26	SW NW	96	8.75 CHAINS NORTH AND 14 CHAINS EAST FROM THE SW CORNER OF DLC 96

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	2 W	WM	26	NE SW	96	2.0
6 S	2 W	WM	26	NW SW	96	6.9
6 S	2 W	WM	27	NE SE	96	1.1

3. Transfer Application T-10720 proposes to move the authorized point of appropriation approximately 0.59 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	2 W	WM	26	NW SE	96	100 FEET NORTH AND 350 FEET EAST FROM THE NE CORNER OF DLC 46

4. Transfer Application T-10720 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	2 W	WM	26	SW NE	96	5.4
6 S	2 W	WM	26	NW SE	96	2.7
6 S	2 W	WM	26	SE NW	96	0.7
6 S	2 W	WM	26	NE SW	96	1.2

5. Notice of the application for transfer was published on November 11, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. On October 22, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10720 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 23, 2009, for the applicant to respond and submit a revised Land Use Information form including Tax Lot 1400 where the proposed point of appropriation is located and a report of ownership. The applicant provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer and a corrected Land Use Information form. He asked that the applicant name be changed to Walter E. Lierman, and requested that the Department proceed with issuance of a Preliminary Determination.
7. Review of the title company report indicated that there is a narrow strip of land south of the applicant's property that is a part of the remaining portion of the right. On February 26, 2010, a revised map was submitted to illustrate the proper relationship between the transferred and remaining portions of the right.
8. On March 5, 2010, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10720 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 March 9, 2010, and in the Silverton Appeal-Tribune newspaper on March 17, 24, and 31, 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)***

9. 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
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-10720.
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 change in point of appropriation and change in place of use proposed in Transfer Application T-10720 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

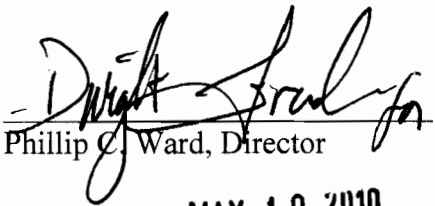
**Now, therefore, it is ORDERED:**

1. The change in point of appropriation and change in place of use proposed in application T-10720 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 30705 and any related decree.
3. Water right certificate 30705 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, 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.
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 each 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 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, 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 changes and full beneficial use of the water.
9. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 7 day of May 2010.

  
Phillip C. Ward, Director

**MAY 10 2010**

Mailing Date: \_\_\_\_\_