

Source: A WELL in the ROCK CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 N	2 W	WM	11	NW SE	1870 FEET NORTH AND 2275 FEET WEST FROM SE CORNER OF SECTION 11.

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	2 W	WM	11	NE SW	3.00
1 N	2 W	WM	11	NE SE	5.20
1 N	2 W	WM	11	NW SE	10.50

3. Application T-10434 proposes to add an ADDITIONAL authorized point of appropriation approximately 0.24 mile from the existing point of appropriation, to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 N	2W	WM	11	SW SE	WELL 4: 622 FEET NORTH AND 2620 FEET WEST FROM THE SE CORNER OF SECTION 11.

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

Certificate: 83329 in the name of CASCADIAN NURSERIES INC.; ALFRED MEISNER (perfected under Permit G-15127)

Use: NURSERY OPERATIONS on 13.95 ACRES

Priority Date: JANUARY 16, 2001

Rate: 0.668 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cfs per acre. For the irrigation of containerized nursery plants, the amount of water diverted is limited to ONE-FORTIETH cfs per acre, not to exceed 5.0 acre-feet per acre per year. For the irrigation of in-ground nursery plants or any other crop, the amount of water is limited to ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year.

Source: A WELL in the HOLCOMB CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 N	2 W	WM	11	NW SE	1870 FEET NORTH AND 2275 FEET WEST FROM SE CORNER OF SECTION 11.

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	2 W	WM	11	NE SW	2.00
1 N	2 W	WM	11	NE SE	4.40
1 N	2 W	WM	11	NW SE	7.55

5. Application T-10434 proposes to add an additional authorized point of appropriation approximately 0.24 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 N	2W	WM	11	SW SE	WELL 4: 622 FEET NORTH AND 2620 FEET WEST FROM THE SE CORNER OF SECTION 11.

6. Notice of the application for transfer was published on July 24, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. The transfer application map did not clearly describe the location of the existing and proposed points of appropriation, and the application also required some clarifications.
8. On November 6, 2007, the Department notified the applicant that the application and map contained errors, which must be corrected before processing of their application could continue. The Department requested that the errors be corrected by December 10, 2007. On November 14, 2007 applicant submitted a corrected application along with a revised map.
9. On February 27, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10434 to the applicant. The draft Preliminary Determination set forth a deadline of March 28, 2008, for the applicant to respond. On March 6, 2008 the applicant responded to clarify some of the statements in the draft Preliminary Determination and asked the Department to extend the date for completion of the changes to October 1, 2010. The applicant also 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.
10. The authorized point of appropriation for Certificates 83329 and 68714 is identified as WASH 5213. The applicant proposed that the new well will have 250 feet of casing and seal and a total depth of 630 feet, a construction similar to WASH 5213. Based on construction of WASH 5213, this design may allow commingling of several water bearing zones or aquifers that have poor natural connections. Therefore, conditions are necessary to avoid injury to other water rights, enlargement of the right and to ensure that the new well develops water from the same aquifer as the original well.
11. On March 6, 2008, the applicant proposed the following conditions to avoid enlargement of the right or injury to other water rights:
- i) The new well shall be limited to a single aquifer and shall have an open interval that is no greater than 100 feet except as noted below. Open interval means the total length of borehole that is not behind sealed casing. The borehole above the open interval shall be continuously cased and continuously sealed to land surface. A larger open interval may be approved by the Department if the applicant can conclusively demonstrate, using packer tests or other suitable methods, that the hydraulic heads of

water-bearing zones in the proposed open interval are similar enough to prevent loss of artesian pressure between zones.

- ii) The reference level at the new well shall reflect the change in water level (decline or rise) that has occurred at the original well (WASH 5213) since that reference level was established. (For example, if the original well shows a ten-foot decline from its reference level, then the reference level for the new well would be set equal to the first March water level at the new well, minus 10 feet.)
 - iii) Prior to using the well under this transfer, the applicant shall demonstrate that the new and old wells are, more likely than not, producing water from the same aquifer. Evidence in support of a common aquifer shall include hydraulic testing that shows the mutual interference, if any, between the wells or documentation of similar water levels in the wells and the analysis of drill cuttings, geologic cross-sections or other hydrogeologic data that indicates whether hydraulic continuity exists between wells.
 - iv) If the evidence does not demonstrate that the new well produces water from the same aquifer as the original point of appropriation, the change cannot be completed to the satisfaction of the Director. In that case, the Department shall issue an order reverting the point of appropriation to the authorized point of appropriation prior to the transfer pursuant to OAR 690-380-610(6).
12. On April 11, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10434 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 April 15, 2008, 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)

13. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
14. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Application T-10434.
15. The proposed change, as conditioned, would not result in enlargement of the rights.
16. The proposed change, as conditioned, would not result in injury to other water rights.

Conclusions of Law

The additional point of appropriation proposed in application T-10434 is 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 proposed in application T-10434 is approved.
2. Water right certificates 68714 and 83329 are cancelled.
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 68714 and 83329 and any related decree.
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 new well shall be limited to a single aquifer and shall have an open interval that is no greater than 100 feet except as noted below. Open interval means the total length of borehole that is not behind sealed casing. The borehole above the open interval shall be continuously cased and continuously sealed to land surface. A larger open interval may be approved by the Department if the applicant can conclusively demonstrate, using packer tests or other suitable methods, that the hydraulic heads of water-bearing zones in the proposed open interval are similar enough to prevent loss of artesian pressure between zones.
8. The reference level at the new well shall reflect the change in water level (decline or rise) that has occurred at the original well (WASH 5213) since that reference level was established. (For example, if the original well shows a ten foot decline from its reference level, then the reference level for the new well would be set equal to the first March water level at the new well, minus 10 feet.)
9. Prior to using the well under this transfer, the applicant shall demonstrate that the new and old wells are, more likely than not, producing water from the same aquifer. Evidence in support of a common aquifer shall include hydraulic testing that shows mutual interference between the wells or documentation of similar water levels in the wells and the analysis of drill cuttings, geologic cross-sections, or other hydrogeologic data that indicates whether hydraulic continuity exists between wells.

10. If the evidence does not demonstrate that the new well produces water from the same aquifer as the original point of appropriation, the change cannot be completed to the satisfaction of the Director. In that case, the Department shall issue an order reverting the point of appropriation to the authorized point of appropriation prior to the transfer pursuant to OAR 690-380-610(6).
11. The approved change 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 change and full beneficial use of the water.
12. When satisfactory proof of the completed change is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 16th day of May 2008.



Phillip C. Ward, Director *fn*

Mailing date: MAY 23 2008