

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

In the Matter of Transfer Application )  
T-9617 to add an additional point of ) FINAL ORDER  
diversion , Baker County, Oregon )

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, 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.

<b>Applicant</b>	<b>Responsible Party (Receiving Landowner)</b>
Margaret A. Petty 23328 SE 113 <sup>th</sup> ST Issaquah, Washington 98027	Wyatt Agar P.O. Box 215 Huntington, OR 97907

**Findings of Fact**

1. Margaret A. Petty and Wyatt Agar filed an application to add an additional point of diversion under Certificates 10768 and 42362. The Department assigned the application number T-9617.

2. The portion of the FIRST right to be transferred is as follows:

**Certificate:** 10768 in the name of ESTHER LAWTON  
**Use:** IRRIGATION  
**Priority Date:** JULY 26, 1933  
**Quantity:** 0.82 cfs  
**Acres:** 65.0  
**Source:** Snake River, tributary to the Columbia River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼	¼
15	S	45	E	W.M.	9	NW	NE

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

This is an order 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 137-004-080 and OAR 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order.

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
14	S	45	E	W.M.	32	SE	SW	2.0
14	S	45	E	W.M.	32	NE	SE	13.0
14	S	45	E	W.M.	32	SW	SE	20.0
14	S	45	E	W.M.	32	SE	SE	30.0

3. The SECOND right to be transferred is as follows:

**Certificate:** 42362 in the name of EBBA GAY  
**Use:** IRRIGATION  
**Priority Date:** OCTOBER 15, 1964  
**Quantity:** 3.55  
**Acres:** 142.1  
**Source:** Snake River, tributary to the Columbia River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼		Lot	Location
15	S	45	E	W.M.	9	NW	NE	2	290' S & 2770' E from NW cor, sec 9

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Lot	Acres
14	S	45	E	W.M.	31	NE	NE	N/A	0.1
14	S	45	E	W.M.	31	NW	NE	N/A	17.2
14	S	45	E	W.M.	31	SW	NE	N/A	10.8
14	S	45	E	W.M.	31	SE	NE	N/A	8.0
14	S	45	E	W.M.	31	NE	NW	N/A	24.7
14	S	45	E	W.M.	31	NW	NW	N/A	12.0
14	S	45	E	W.M.	31	SE	NW	N/A	1.1
14	S	45	E	W.M.	31	NE	SE	N/A	15.5
14	S	45	E	W.M.	31	NW	SE	LOT1	3.3
14	S	45	E	W.M.	32	NE	SW	N/A	9.1
14	S	45	E	W.M.	32	NW	SW	N/A	10.6
14	S	45	E	W.M.	32	SW	SW	N/A	22.1
14	S	45	E	W.M.	32	SE	SW	N/A	7.4
15	S	45	E	W.M.	5	NE	NW	LOT 3	0.2

- Application T-9617 proposes to add an additional point of diversion approximately 1 mile downstream in the source to:

Township		Range		Meridian	Sec	¼ ¼		Location
15	S	45	E	W.M.	4	NW	NW	300' S & 300' E from NW cor, sec 4

- 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 notices.
- Water has been used within the last five years according to the terms and conditions of the right and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- A diversion structure, ditch, pipe and pump, sufficient to use the full amount of water allowed under the existing right are present.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.

### Conclusion of Law

T-9617 complies with the requirements of ORS 540.520, and the Department finds that no injury to existing water right would result from this transfer.

### Now, therefore, it is ORDERED:

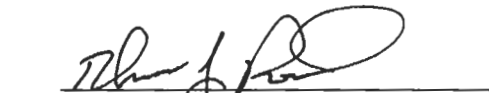
- The change in adding a point of diversion in Transfer application 9617 is approved.
- Water right certificates 10768 and 42362 are cancelled. A new remaining right Certificate will be issued to confirm that portion of Certificate 10768 NOT involved in this transfer.
- The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 10768 and 42362.
- The quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
- Wyatt Agar, P.O. Box 215, Huntington, OR 97907 is responsible for completion of the changes
- When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and 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 water user **SHALL** install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction and shall be installed under the supervision of the Department of Fish and Wildlife.

The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

8. The changes shall be completed on or before October 1, 2005.
9. By October 1, 2006, the water user shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).
10. When satisfactory proof of the completed changes is received, new certificates will be issued describing the transferred water right.

Dated at Salem, Oregon this 20<sup>th</sup> day of May, 2004.

  
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Paul R. Cleary  
Director

Mailing date: MAY 25 2004