

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

In the Matter of Transfer Application                    )     FINAL ORDER APPROVING A  
T-10583, Clackamas County                            )     CHANGE IN POINTS OF  
  )     APPROPRIATION

**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**

STEPPING STONES LAND LLC  
PO BOX 961  
CANBY OR 97013-0961

**Findings of Fact**

**Background**

1. On March 31, 2008, STEPPING STONES LAND LLC filed an application to change the points of appropriation under Certificates 51909 and 66615. The Department assigned the application number T-10583.
2. The portion of the first right to be transferred is as follows:  
**Certificate:** 66615 in the name of HESSEL BIERMA (perfected under Permit G-10475)  
**Use:** IRRIGATION of 5 ACRES  
**Priority Date:** JANUARY 30, 1985 and JANUARY 31, 1985  
**Rate:** 0.041 CUBIC FOOT PER SECOND (being 0.023 cfs for January 30, 1985 and 0.018 cfs for January 31, 1985)  
**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 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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.

**Source:** WELL 1 and WELL 2 within the BUTTE CREEK BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
5 S	1 E	WM	19	NE NE	WELL 2 - 490 FEET SOUTH AND 1940 FEET EAST FROM THE NORTH 1/4 CORNER OF SECTION 19
5 S	1 E	WM	19	NW NE	WELL 1 - 500 FEET SOUTH AND 230 FEET EAST FROM THE NORTH 1/4 CORNER OF SECTION 19

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	19	SE NE	5.0

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

**Certificate:** 51909 in the name of HESSEL BIERMA (perfected under Permit G-8480)

**Use:** IRRIGATION of 16.6 ACRES

**Priority Date:** FEBRUARY 26, 1979

**Rate:** 0.21 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 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** WELL 1 and WELL 2 within the ROCK CREEK BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
5 S	1 E	WM	19	NE NE	WELL 2 - 530 FEET SOUTH AND 670 FEET WEST FROM THE NORTHEAST CORNER OF SECTION 19
5 S	1 E	WM	19	NW NE	WELL 1 - 570 FEET SOUTH AND 2420 FEET WEST FROM THE NORTHEAST CORNER OF SECTION 19

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	19	SW NE	4.5
5 S	1 E	WM	19	SE NE	12.1

4. Transfer Application T-10583 proposes to move the authorized point of appropriation of Certificate 51909 approximately 2,300 feet from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
5 S	1 E	WM	19	SE NE	WELL 3 - 2090 FEET SOUTH AND 860 FEET WEST FROM THE NORTHEAST CORNER OF SECTION 19

5. Transfer Application T-10583 proposes to move the authorized point of appropriation of Certificate 66615 approximately 2,300 feet from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
5 S	1 E	WM	19	SE NE	WELL 3 - 2090 FEET SOUTH AND 860 FEET WEST FROM THE NORTHEAST CORNER OF SECTION 19

6. Notice of the application for transfer was published on April 8, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On August 20, 2009, the Department mailed a copy of the draft Preliminary Determination to approve Transfer Application T-10583 to the applicant and agent. The draft Preliminary Determination cover letter set forth a deadline of September 21, 2009, for the applicant to respond. The applicant requested that the Department proceed with the issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
8. On September 2, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10515 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 September 3, 2009, and in the Canby Herald on September 23, 30 and October 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 according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are 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 rights were present within the five-year period prior to submittal of Transfer Application T-10583.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

The change in point of appropriation proposed in Transfer Application T-10583 appears to be 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 proposed in application T-10583 is 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 Certificates 51909 and 66615 and any related decree.
3. Water right certificates 51909 and 66615 are cancelled. A new certificate will be issued describing the portion of the Certificate 66615 that is not affected by this transfer.
4. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original points 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 are located within a private structure, the Watermaster shall request access upon reasonable notice.
6. The approved change 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 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.
7. When satisfactory proof of the completed change is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 23<sup>rd</sup> day of October 2009.

  
Phillip C. Ward, Director

Mailing Date: OCT 27 2009