OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-11811, Marion County)	CHANGES 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.

Applicants

ROBERT W. AND JILL M. GABRIEL 8474 HAZELGREEN RD NE SILVERTON, OR 97381

Findings of Fact

- 1. On May 9, 2014, ROBERT W. and JILL M. GABRIEL filed an application for changes in points of appropriation under Certificates 54875 and 85895. The Department assigned the application number T-11811.
- 2. Notice of the application for transfer was published on May 20, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On September 8, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11811 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of October 9, 2014, for the applicants to respond. The applicants 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.
- 4. On October 20, 2014, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11811 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on October 28, 2014, and in the Silverton Appeal newspaper on November 5 and 12, 2014, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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.

5. The portion of the first right to be transferred is as follows:

54875 in the name of BLAINE P. GRASSMAN (perfected under Permit Certificate:

G-10384)

Use: **IRRIGATION of 51.0 ACRES**

Priority Date: APRIL 12, 1984

Rate:

0.63 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, 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:

A WELL in the EAST CHAMPOEG CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	2 W	WM	21	NE NE	99	920 FEET NORTH AND 2240 FEET WEST FROM THE SE CORNER OF FELIX BERGEVIN DLC 99

Authorized Place of Use:

		IRR	IGATI	ON		
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	2 W	WM	22	NW NE	99	0.1
5 S	2 W	WM	22	NE NW	99	15.2
5 S	2 W	WM	22	NW NW	99	5.2
5 S	2 W	WM	22	SW NW	99	11.2
5 S	2 W	WM	22	SE NW	99	19.3
:					Total:	51.0

Transfer Application T-11811 proposes to change the point of appropriation approximately 767 feet and 0.3 mile, respectively, from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	2 W	WM	22	SW NW	99	WELL 1: 1810 FEET SOUTH AND 470 FEET EAST FROM THE NW CORNER OF SECTION 22
5 S	2W	WM	22	SW NW	99	WELL 2: 1950 FEET SOUTH AND 1260 FEET EAST FROM THE NW CORNER OF SECTION 22

7. The portion of the second right to be transferred is as follows:

Certificate:

85895 in the name of JOHN WEISZ JR (perfected under Permit G-12096)

Use:

IRRIGATION of 6.0 ACRES

Priority Date: MARCH 18, 1993

Rate:

0.08 CUBIC FEET 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.

Period of Use: March 1 through October 31

Source: TWO WELLS in the SENECAL CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	2 W	WM	14	SW NW		480 FEET NORTH AND 2550 FEET WEST FROM THE C1/4 CORNER OF SECTION 14
5 S	2 W	WM	15	SE SE	57	890 FEET NORTH AND 20 FEET WEST FROM THE SE CORNER OF DLC 41

Authorized Place of Use:

		IRR	IGATI	ON		
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
5 S	21 W	WM	22	NW NE	Lot 2	0.4
5 S	21 W	WM	22	SW NE		1.6
5 S	21 W	WM	22	SE NW	Lot 3	4.0

8. This Order corrects a scrivener error in the certificate recorded at page 85895, State Record of Water Right Certificates. Certificate 85895 erroneously describes the place of use. The place of use is correctly described as follows:

		IRR	IGATI	ON		
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
5 S	2 W	WM	22	NW NE	Lot 2	0.4
5 S	2 W	WM	22	SW NE		1.6
5 S	2 W	WM	22	SE NW	Lot 3	4.0

9. Transfer Application T-11811 proposes to change the points of appropriation approximately 0.9 mile from authorized well 1 and 0.8 mile and 0.6 mile from authorized well 2 to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	2 W	WM	22	SW NW	99	WELL 1: 1810 FEET SOUTH AND 470 FEET EAST FROM THE NW CORNER OF SECTION 22
5 S	2W	WM	22	sw nw	99	WELL 2: 1950 FEET SOUTH AND 1260 FEET EAST FROM THE NW CORNER OF SECTION 22

Transfer Review Criteria (OAR 690-380-4010)

10. Water has been used within the last five years according to the terms and conditions of the rights.

- 11. 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-11811.
- 12. The proposed changes would not result in enlargement of the rights.
- 13. The proposed changes would not result in injury to other water rights.
- 14. All other application requirements are met.

Conclusions of Law:

The changes in points of appropriation proposed in Transfer Application T-11811 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 changes in points of appropriation proposed in Transfer Application T-11811 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 Certificates 54875 and 85895 and any related decree.
- 3. Water Right Certificates 54875 and 85895 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.
- 4. The quantity of water diverted at the new points 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 new point of appropriation.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are 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 points of appropriation.
- 7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2016**. 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 change and full beneficial use of the water.

8.	After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.
Dat	ed at Salem, Oregon this 18 day of December, 2014.
	ight French, Water Right Services Administrator, for
	omas M. Byler, Director, egon Water Resources Department

Mailing Date: ______ DEC 2 4 2014