

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NE SE	440 FEET SOUTH AND 1200 FEET WEST FROM THE E 1/4 CORNER OF SECTION 4

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Lot	Acres
39 S	5 W	WM	3	SE NW	21	3.1

Lot within the 40-acre tract refers to Retzloff partition of the NW ¼ of Section 3, T. 39 S., R. 5 W., W.M.

- Transfer Application T-10916 proposes to move the authorized point of diversion for a portion of Certificate 45515 approximately 3490 feet (approx. 0.66 mile) downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	3	SE NW	2100 FEET SOUTH AND 350 FEET WEST FROM THE E 1/4 CORNER OF SECTION 3

- Notice of the application for transfer was published on July 21, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is currently equipped with an appropriate fish screening and/or by-pass device.

Transfer Review Criteria (ORS 540.532 and OAR 690-380-2120)

- Pursuant to OAR 690-380-2120(2)(a), evidence has been submitted that the actual, current point of diversion for the water right in question, as described in Finding No. 3, has been in use for more than 10 years. This evidence was submitted by the applicants on April 19, 2010.
- Pursuant to OAR 690-380-2120(2)(c), the Watermaster provided a statement that to her knowledge there has been no complaint of injury due to the use of water at the actual, current point of diversion, prior to the transfer request.
- Pursuant to OAR 690-380-2120(3), the Department provided the applicant a list of the affected water rights and a copy of the notice to be provided to each affected water right holder. On April 19, 2010, the applicants provided written proof of service of notice of the proposed transfer on all affected water right holders.
- Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available 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 are present.
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 proposed change in point of diversion to reflect historical use in application T-10916 is consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change proposed in T-10916 is approved and effective immediately.
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 45515 and any related decree.
3. Water right certificate 45515 is cancelled. Certificate 86247 will be issued to describe the change in point of diversion for the portion of the right included in T-10916. Certificate 86248 shall be issued to describe the portion of Certificate 45515 not modified by this order. Together, the new Certificates shall supersede Certificate 45515.
4. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.
5. Water use measurement conditions:
 - a. Prior to October 1, 2011, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion.
 - 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. When required by the Department, the water user shall install, maintain and operate a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate 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 maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.

Dated at Salem, Oregon this 12 day of May 2010.


Phillip C. Ward, Director

Mailing date: MAY 18 2010