

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	39 E	WM	19	NE SE	680 FEET SOUTH & 770 FEET EAST FROM THE E1/4 CORNER OF SECTION 19

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	39 E	WM	20	NE SW	31.1

3. There is an apparent scrivener's error in the description of the authorized point of appropriation under Certificate 39250. The point of appropriation location coordinates listed in the certificate (680 feet South and 770 feet East from the E1/4 corner of Section 19, NE 1/4 SE 1/4 Sec. 19, T8S, R39E, W.M.) are in error. Based on the accompanying transfer map and final proof survey for Certificate 39250, the location coordinates of the authorized point of appropriation should be as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	39 E	WM	19	NE SE	680 FEET SOUTH & 770 FEET <u>WEST</u> FROM THE E1/4 CORNER OF SECTION 19

4. Transfer Application T-10221 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	39 E	WM	20	SE NW	31.1

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

Certificate: 75775 in the name of NORMAN BUTLER (perfected under Permit G-2877)
Use: SUPPLEMENTAL IRRIGATION of 6.9 ACRES
Priority Date: APRIL 14, 1965
Rate: 0.09 CUBIC FEET PER SECOND (cfs)
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year
Source: GRAVEL PIT NO. 1 in the PINE CREEK (POWDER RIVER) BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	39 E	WM	19	NE SE	680 FEET SOUTH & 770 FEET WEST FROM THE E1/4 CORNER OF SECTION 19

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	39 E	WM	20	NE SW	6.9

6. Transfer Application T-10221 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	39 E	WM	20	SE NW	6.9

7. Notice of the application for transfer was published on August 22, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
8. On December 19, 2006, the Department issued a preliminary determination proposing to approve Transfer Application T-10221 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 December 26, 2006, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the Department's weekly notice.
9. Water was not used according to the terms and conditions of the rights within the five years prior to submittal of the transfer application on August 11, 2006. However, the nonuse occurred during a period of time when water was not available due to drought conditions. It has been demonstrated that the water right holder was ready, willing and able to use the water had it been available. The applicant, therefore, has sufficiently rebutted the presumption of forfeiture in accordance with ORS 540.610(2)(j).
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights is present.
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.
13. Consistent with OAR 690-380-2240(5), the priority dates and sources for the primary irrigation rights located at the place of use from which the supplemental irrigation rights are to be moved are similar in reliability to those of the primary irrigation rights currently located at the proposed place of use.
14. The applicant requested to extend the completion date to October 1, 2009.

Conclusions of Law


The change in place of use proposed in Transfer Application T-10221 is consistent with the requirements of ORS 537.705, 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-10221 is approved.
2. The right to 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 39250, 75775 and any related decree.
3. Certificates 39250 and 75775 are cancelled. A new certificate will be issued describing that portion of the right evidenced by Certificate 75775 not involved in this transfer.

4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2009**. 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 changes and full beneficial use of the water.
5. The former place of use of the transferred water shall no longer receive water as part of these rights.
6. Prior to diverting water at the new point of appropriation, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. 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.
7. When satisfactory proof of the completed change is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 30th day of January 2007.



Phillip C. Ward, Director

Mailing date: JAN 31 2007