

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

Certificate: 2458 in the name of W. R. SIMMONS (perfected under Permit S-3087)
Use: IRRIGATION of 16.0 ACRES
Priority Date: AUGUST 18, 1916
Rate: 0.28 CUBIC FOOT PER SECOND
Source: SIMMONS CREEK AND WASTE WATER FROM H. & J. L. SIMMONS WATER RIGHT, tributary of TILLAMOOK RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	9 W	WM	20	NE SE	16.0

6. Certificate 2458 does not describe the location of the point of diversion; however, information is available from the survey map and Watermaster, indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	9 W	WM	21	SW SE	POD NO. 1 - NORTH 320 FEET AND EAST 440 FEET FROM THE SOUTH ¼ CORNER OF SECTION 21

7. Transfer Application T-11533 proposes to move the authorized point of diversion approximately 4148 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	9 W	WM	20	NE SE	POD NO. 2 - SOUTH 1300 FEET AND WEST 1070 FEET FROM THE EAST ¼ CORNER OF SECTION 20

8. Transfer Application T-11533 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	9 W	WM	20	NE SE	15.5
2 S	9 W	WM	20	SE SE	0.5

9. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

Transfer Review Criteria [OAR 690-380-4010(2)]

10. Evidence was submitted with the application indicating that water has been used within the last five years according to the terms and conditions of the right.

11. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-11533.
12. The proposed changes would not result in enlargement of the right.
13. The proposed changes would not result in injury to other water rights

Conclusions of Law

The change in point of diversion and change in place of use proposed in Transfer Application T-11533 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 in point of diversion and change in place of use proposed in Transfer Application T-11533 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 Certificate 2458 and any related decree.
3. Water right certificate 2458 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
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. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

6. The former place of use of the transferred right shall no longer receive water under the right.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2015**. 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 changes and full beneficial use of the water.

8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 18 day of March, 2014.



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing Date: MAR 24 2014