

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
19 S	1 W	WM	8	SE NE	51	POD 1 - 180 FEET NORTH AND 370 FEET WEST FROM EAST 1/4 CORNER SECTION 8

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
19 S	1 W	WM	8	NE NE	51	1.0
19 S	1 W	WM	8	NW NE	51	8.3
19 S	1 W	WM	8	SW NE	51	13.8
19 S	1 W	WM	8	SE NE	51	5.9

- Transfer Application T-10483 proposes to move the point of diversion to reflect historic use of a point approximately 1800 feet downstream:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
19 S	1 W	WM	8	NE NE	POD 2 - 790 FEET NORTH AND 2340 FEET EAST FROM NORTHEAST CORNER OF DLC 39

- Notice of the application for transfer was published on November 13, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On September 2, 2009, the Department mailed a copy of the draft Final Order proposing to approve the Transfer Application T-10483 to the applicants. On September 16, 2009, the applicants requested that the Department proceed with issuance of a Final Order based on the conditions of the draft.

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 of Fact #3, has been in use for more than 10 years.
- Pursuant to OAR 690-380-2120(2)(c), the Watermaster provided a statement that to his 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.
- The Department did not identify any affected water rights pursuant to OAR 690-380-2120(3).
- 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.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
- 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-10483 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-10483 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 44405 and any related decree.
3. Water right certificate 44405 is cancelled. A new confirming certificate will be issued to describe the change in point of diversion for the portion of the right included in T-10483. A new remaining right certificate shall be issued to describe the portion of Certificate 44405 not modified by this order. Together, the new Certificates shall supersede Certificate 44405.
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 October 1, 2011, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
6. When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

Dated at Salem, Oregon this 29th day of September 2009.


Phillip C. Ward, Director *Pz*

Mailing date: OCT 01 2009