

**BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON**

In the Matter of Transfer Application	)	FINAL ORDER
T-11380, Deschutes County	)	APPROVING AN ADDITIONAL POINT
	)	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.

**Applicant**

BLACK BUTTE RANCH ASSOCIATION  
ATTN: SWEN PETTERSON  
PO BOX 8000  
BLACK BUTTE RANCH OR 97759

**Findings of Fact**

**Background**

1. On March 21, 2012, BLACK BUTTE RANCH ASSOCIATION filed an application for an additional point of appropriation under Certificate 86709. The Department assigned the application number T-11380.

2. The right to be transferred is as follows:

**Certificate:** 86709 in the name of BLACK BUTTE RANCH ASSOCIATION (perfected under Permit G-8501)  
**Use:** GROUP DOMESTIC FOR 155 FAMILIES  
**Priority Date:** FEBRUARY 2, 1979  
**Rate:** 0.27 CUBIC FOOT PER SECOND  
**Sources:** WELLS 1 AND 2, within the DESCHUTES BASIN

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.

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	9 E	WM	9	SW SW	WELL 1 - 469 FEET NORTH AND 450 FEET EAST FROM THE SW CORNER OF SECTION 9
14 S	9 E	WM	16	SE NE	WELL 2 - 1530 FEET SOUTH AND 1236 FEET WEST FROM THE NE CORNER OF SECTION 16

**Authorized Place of Use:**

GROUP DOMESTIC				
Twp	Rng	Mer	Sec	Q-Q
14 S	9 E	WM	21	NE NE
14 S	9 E	WM	21	NW NE
14 S	9 E	WM	21	SW NE
14 S	9 E	WM	21	SE NE
14 S	9 E	WM	21	NE NW
14 S	9 E	WM	21	SE NW
14 S	9 E	WM	21	NE SW
14 S	9 E	WM	21	NE SE
14 S	9 E	WM	21	NW SE

3. Transfer Application T-11380 proposes an additional point of appropriation between approximately 50 and 4170 feet from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	9 E	WM	16	SE NE	WELL 5 - 1480 FEET SOUTH AND 1236 FEET WEST FROM THE NE CORNER OF SECTION 16

4. Notice of the application for transfer was published on March 27, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. The Department's Groundwater Section has found that in order to prevent significant interference with nearby springs, the proposed additional point of appropriation should be constructed to prevent ground water production from shallower than 300 feet below land surface.
6. On May 6, 2013, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11380 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 5, 2013, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
7. On June 3, 2013, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11380 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on June 11, 2013, and in the Bend Bulletin newspaper on June 6 and 19, 2013, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

***Transfer Review Criteria (OAR 690-380-4010)***

8. Water has been used within the last five years prior to the submittal of Transfer Application T-11380 according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
9. A pump, pipeline, and sprinkler system 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-11380.
10. The proposed change, as conditioned, would not result in enlargement of the right.
11. The proposed change, as conditioned would not result in injury to other water rights.

**Conclusions of Law**

The additional point of appropriation proposed in Transfer Application T-11380 is 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 additional point of appropriation proposed in Transfer Application T-11380 is 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 86709 and any related decree.
3. Water right certificate 86709 is cancelled.
4. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original 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 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. The proposed point of appropriation shall be constructed so as to not allow ground water production from no shallower than 300 feet below land surface.
8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2014**. 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.
9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 17 day of July, 2013.

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

Mailing date: JUL 29 2013