



5. On March 17, 2008, a revised application map was submitted to reflect the revisions made to the transfer application.

6. The first right to be transferred is as follows:

**Certificate:** 83307 in the name of VERA TRIVELPIECE (perfected under Permit S-13288)  
**Use:** IRRIGATION of 20.0 ACRES  
**Priority Date:** SEPTEMBER 14, 1938  
**Rate:** 0.25 CUBIC FOOT PER SECOND (CFS)  
**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year  
**Source:** NORTH YAMHILL RIVER, tributary to YAMHILL RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
3 S	4 W	WM	5	NW SW	41	2370 FEET NORTH AND 170 FEET WEST FROM THE NW CORNER OF MCSWEEN DLC 80

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	4 W	WM	5	SE SW	41	7.7
3 S	4 W	WM	5	SW SE	41	9.2
3 S	4 W	WM	8	NW NE	41	1.5
3 S	4 W	WM	8	NE NW	41	1.6
<b>TOTAL:</b>						<b>20.0</b>

7. The second right to be transferred is as follows:

**Certificate:** 83308 in the name of VERA TRIVELPIECE (perfected under Permit S-13890)  
**Use:** IRRIGATION of 9.5 ACRES  
**Priority Date:** JUNE 27, 1939  
**Rate:** 0.12 CUBIC FOOT PER SECOND (CFS)  
**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year  
**Source:** NORTH YAMHILL RIVER, tributary to YAMHILL RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
3 S	4 W	WM	5	NW SW	41	2370 FEET NORTH AND 170 FEET WEST FROM THE NW CORNER OF MCSWEEN DLC 80

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	4 W	WM	8	NW NE	41	2.5
3 S	4 W	WM	8	NE NW	41	7.0
<b>TOTAL:</b>						<b>9.5</b>

8. Transfer Application T-7391 proposes to move the authorized point of diversion under Certificates 83307 and 83308 approximately 0.87 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
3 S	4 W	WM	5	SW SE	41	1870 FEET NORTH AND 1563 FEET EAST FROM THE NW CORNER OF MCSWEEN DLC 80

9. Notice of the application for transfer was published on July 26, 1995, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. 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 not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.
11. On March 25, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-7391 to the applicants. The draft Preliminary Determination set forth a deadline of April 24, 2008, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
12. On March 31, 2008, the Department issued a Preliminary Determination proposing to approve Transfer Application T-7391 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on April 8, 2008, and in the *News-Register* newspaper on April 10, 17 and 24, 2008, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

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

13. Water was used within the five year period prior to submittal of Transfer Application T-7391 on July 19, 1995, according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
14. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-7391.
15. The proposed change would not result in enlargement of the rights.
16. The proposed change would not result in injury to other water rights.

## Conclusions of Law

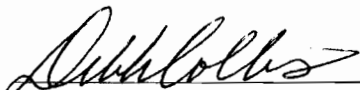
The change in point of diversion proposed in Transfer Application T-7391 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

### Now, therefore, it is ORDERED:

1. The change in point of diversion proposed in Transfer Application T-7391 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 Certificates 83307 and 83308 and any related decree.
3. Water right certificates 83307 and 83308 are cancelled.
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 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. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state'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, maintain and operate 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 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 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.
8. The approved change 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 change and full beneficial use of the water.

9. When satisfactory proof of the completed change is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 27<sup>th</sup> day of May 2008.

*pc*   
Phillip C. Ward, Director

Mailing date: ~~MAY 30 2008~~