

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

In the Matter of Transfer Application) FINAL ORDER
T-9786, Washington County) APPROVING A CHANGE
) IN PLACE OF USE

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, 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

Willamette Valley Vineyards, Inc
8800 Enchanted Way
Turner, OR 97392

Findings of Fact

1. On September 17, 2004, Willamette Valley Vineyards, Inc filed a transfer application to change the place of use under Certificates 21970, 21971 and 22015. The Department assigned the application number T-9786.
2. The right under Certificate 21971 is for storage of the waters of an unnamed stream, tributary to West Dairy Creek, in a reservoir for irrigation use. The right to store water in the reservoir is not proposed to be changed, so Certificate 21971 is not being considered as being included in T-9786. Certificates 21970 and 22015 have been superseded by Certificates 81073 and 81072 respectively, as a result of approval of T-8359.
3. On August 15, 2005 the applicant requested that the proposed dates for completion of the change and submittal of the Claim of Beneficial Use listed in the Preliminary Determination be extended, to allow more time to complete installation of the new vineyard planting and the monitoring system. The revised dates for completion and proof of the changes are as stated in this order.
4. The portion of the first right to be transferred is as follows:
Certificate: 81072 in the name of RICHARD SPANGLER
Use: Irrigation of 14.06 acres
Priority Date: July 13, 1950

This is a final order in other than contested case. This order is subject to judicial review under ORS.183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either 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.

Quantity: 0.10 cfs
Rate/Duty: 1/80 cfs per acre, not to exceed 2-1/2 acre-feet per acre per year
Source: An unnamed stream tributary to West Dairy Creek

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Lot	Survey Coordinates
1	N	4	W	W.M.	3	SE NW	4	100 feet N & 1950 feet E FROM W ¼ CORNER OF SECTION 3

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres
1	N	4	W	W.M.	3	NW NW	4	4.15
1	N	4	W	W.M.	3	SW NW	4	9.91

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

Certificate: 81073 in the name of RICHARD SPANGLER
Use: Supplemental irrigation of 14.06 acres
Priority Date: July 20, 1951
Quantity: 1.03 ac-ft
Rate/Duty: Not to exceed 2-1/2 acre-feet per acre per year and shall be further limited to a total of not to exceed 1.03 acre feet in any one irrigation season.
Source: A tributary to West Dairy Creek

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Lot	Survey Coordinates
1	N	4	W	W.M.	3	SE NW	4	100 feet N & 1950 feet E FROM W ¼ CORNER OF SECTION 3

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres
1	N	4	W	W.M.	3	NW NW	4	4.15
1	N	4	W	W.M.	3	SW NW	4	9.91

6. Application T-9786 proposes to change the place of use of the rights to:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres
1	N	4	W	W.M.	3	NW NW	4	0.82
1	N	4	W	W.M.	4	SW NE	___	4.38
1	N	4	W	W.M.	4	SE NE	___	8.86

7. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
8. Water has been used within the last five years according to the terms and conditions of the rights and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

9. A reservoir, pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
10. Application T-9786 is proposing to convert 24.32 acres of sprinkler irrigated land to rows of circles 4.48 feet in diameter within a total field area of 57.65 acres. The circles are centered on vines 5.0 feet apart. The vine rows are 7.5 feet apart between the centers of the circles. The 14.06 acre portion being transferred from existing fields consists of the area within field boundaries that will be outside of the remaining irrigated circles. This transferred acreage will be applied to new fields in a configuration of rows of 4.48' diameter plant circles.
11. Application T-9786 proposes to irrigate the 4.48 foot diameter circles using a drip irrigation system.
12. The proposed change would not result in enlargement of the right, provided irrigated area is limited to the designated circles.
13. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in place of use proposed in application T-9786 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 place of use proposed in application T-9786 is approved.
2. Water right certificates 81072 and 81073 are cancelled. New certificates will be issued describing those portions of the rights not involved in this transfer.
3. 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 81072 and 81073 and any related decree.
4. The proposed change shall be completed on or before October 1, 2012.
5. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2013.
6. The former place of use of the transferred water shall no longer be irrigated as part of this water right.
7. Prior to diverting water, 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.

8. The water user shall submit a soil moisture monitoring plan to the Department. The plan shall include the use of high frequency dielectric probe data (or better soil moisture monitoring technology) at select monitoring sites to provide assurance to the Watermaster that water is not moving beyond the boundary of the water right. The water user shall receive approval of the plan before water use may begin.
9. The location and number of soil moisture monitoring sites shall be selected so as to effectively monitor the behavior of the wetted areas located within different slope and/or soil types in the proposed place of use.
10. At each soil moisture monitoring site, the soil moisture measurements shall be made along straight lines with the following description:
 - a. Two lines on opposite sides of the vine with each line perpendicular to the vine row. Measurements shall be made along each line at 16, 26.88, and 36 inch increments away from the base of the vine.
 - b. One line extending outward from the endmost vine parallel with the vine row. Measurements shall be made along the line at 16, 26.88, and 36 inch increments away from the base of the vine.
 - c. One line extending inward towards the vine row from the endmost vine parallel with the vine row. Measurements shall be made along the line at 16, 26.88, and 30 inch increments away from the base of the vine.
11. A control soil measurement site shall be selected that receives only natural moisture from the atmosphere, and does not receive direct irrigation water nor irrigation water runoff.
12. Each soil moisture measurement shall be made at depths of 6, 12, 18, 24, 30, and 36 inches below land surface.
13. Soil moisture monitoring and flow data shall be made available to the Watermaster promptly upon request. The water user shall submit an annual report of water use and soil moisture monitoring data to the Watermaster. The monitoring data shall be reported in a reasonable summary format.
14. If water use by the drip irrigation system delivers water to non-irrigated areas outside the designated circles, the Watermaster may regulate the water use until soil moisture and flow data demonstrate that the non-irrigated areas are not receiving irrigation water.
15. After implementation of the soil moisture monitoring plan for a five year period, the water user may request a review of the monitoring results by the Department and reconsideration of the monitoring and reporting requirement. If the Department does not receive such a request, the monitoring plan shall remain in effect.

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

Dated at Salem, Oregon this 13th day of Septem, 2005.

Debbie Colburn
FOR Phillip C. Ward, Director

Mailing date: SEP 14 2005