

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

In the Matter of Transfer Application)
T-9574, Jackson County)

FINAL ORDER
APPROVING A CHANGE IN
POINT OF DIVERSION

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

LINDA J. ISOLA
12271 AGATE ROAD
EAGLE POINT OR 97524

Findings of Fact

1. On September 29 2003, Linda J. Isola filed a transfer application to change the point of diversion under Certificate 34515. The Department assigned the application number T-9574.
2. On March 14 2005, the application was amended to correct deficiencies. In particular, Certificate 14321 is the water right subject to transfer, rather than Certificate 34515.
3. The right to be transferred is as follows:

Certificate: 14321 in the name of D. FORD MCCORMICK (perfected under Permit S-14634)

Use: IRRIGATION of 2 ACRES

Priority Date: OCTOBER 2, 1940

Rate: 0.03 CUBIC FEET PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 4.5 acre-feet per acre per year

Source: ROGUE RIVER, tributary to PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	GLot	Survey Coordinates
35 S	1 W	WM	20	5	1310 FEET NORTH & 2655 FEET WEST of SE CORNER, SECTION 20 (NICHOLS DITCH)

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a 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.

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	1 W	WM	32	NE NW	1	2

4. Application T-9574 proposes to move the authorized point of diversion approximately 2 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
35 S	1 W	WM	32	NE NW	1	300 FEET SOUTH AND 1030 FEET WEST OF N 1/4 CORNER, SECTION 32

5. 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. However, the Oregon Department of Fish and Wildlife did request inclusion of a condition requiring installation of proper fish screens.
6. 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.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in point of diversion proposed in application T-9574 is consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

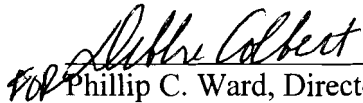
Now, therefore, it is ORDERED:

The change in point of diversion proposed in application T-9574 is approved; the change and subsequent use of water shall be subject to the following conditions:

1. 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 14321 and any related decree.
2. The proposed change shall be completed on or before October 1, 2006.
3. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2007.
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 and maintain an in-line flow meter 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.
6. The water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction, and shall be installed under the supervision of the Department of Fish and Wildlife.
7. Certificate 14321 is cancelled.

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


Phillip C. Ward, Director

Mailing date: SEP 15 2005