

3. Locations of points of diversion historically in use under this right for the above lands are as follows:

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
7	S	38	E	W.M.	35	SE NE	Ashwood; 1493 feet South & 244 feet West from the NE corner of Section 35
7	S	38	E	W.M.	36	SW NW	(Favorite aka Anderson Morris Favorite); 1818 feet South & 1036 feet East from the NW corner of Section 36
7	S	38	E	W.M.	36	NE NW	Ashwood Green; 1249 feet South & 2632 feet East from the NW corner of Section 36

4. Application T-9583 proposes to change the place of use and points of diversion for the lands identified in Finding of Fact #2 in the NW NE and SE NW of Section 36 as follows:

Township		Range		Meridian	Sec	¼ ¼	Priority	Ditch	Acres
7	S	38	E	W.M.	36	SE NW	6/8/1887	Ashwood	4.0
7	S	38	E	W.M.	36	NW NE	4/26/1884	Ashwood Green	4.0

5. The proposed points of diversion for the lands described in Finding of Fact #4 are located as follows:

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
7	S	38	E	W.M.	35	SE NE	Ashwood; 1493 feet South & 244 feet West from the NE corner of Section 35
7	S	38	E	W.M.	36	NE NW	Ashwood Green; 1249 feet South & 2632 feet East from the NW corner of Section 36

6. Application T-9583 proposes to add a point of diversion in Rock Creek to all of the lands mentioned in Finding of Fact # 2 to:

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
7	S	38	E	W.M.	35	SW NE	Miller; 1564 feet South & 2062 feet West from the NE corner of Section 35

7. Notice of the application for transfer was published on November 4, 2003 pursuant to ORS 540.520 and OAR 690-380-4000.
8. Water has been used within the last five years according to the terms and conditions of the right and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
9. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.

10. The proposed changes would not result in enlargement of the right.
11. The proposed changes would not result in injury to other water rights.
12. On April 1, 2006, the Department issued a preliminary determination proposing to approve Transfer T-9583 and mailed a copy to the applicant. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on April 4, 2006, and in the Baker City Herald newspaper on May 19 and 26 and June 2, 2006 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Conclusions of Law


The proposed changes in point of diversion and place of use in application T-9583 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The in point of diversion and place of use proposed in application T-9583 are approved.
2. Water right certificate 3977 is cancelled. A new certificate will be issued describing that portion of the right 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 Certificate 3977 and any related decree.
4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2007**. 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 changes and full beneficial use of the water.
5. The quantity of water diverted at the additional point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
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.

7. When satisfactory proof of the completed changes is received, a new certificate confirming the portion of the right transferred will be issued.

Dated at Salem, Oregon this 14th day of July, 2006.



Phillip C. Ward, Director
1207

Mailing date: JUL 21 2006