

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-7298, Yamhill County)	CHANGE IN PLACE OF USE AND
)	PARTIAL DIMINISHMENT OF A
		WATER RIGHT

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

PALMER CREEK WATER DISTRICT IMPROVEMENT CO.
PO BOX 152
DAYTON OR 97114

Findings of Fact

1. On January 26, 1995, Palmer Creek Water District Improvement Co. filed a transfer application to change the place of use under Certificates 64749 (superseded by Certificate 81330) and 51493. The Department assigned the application number T-7298.
2. The portion of the first right to be transferred is as follows:
Certificate: 81330 in the name of Palmer Creek Water District Improvement Co. (perfected under Permit S-34436)
Use: SUPPLEMENTAL IRRIGATION of 10.40 acres
Priority Date: MAY 28, 1969
Rate: 0.13 cubic foot per second
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.50 acre-feet per acre per year
Source: Willamette River, tributary to Columbia River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
6 S	3 W	WM	4	NW SW	58	4700 feet North & 1290 feet East from SE Corner, DLC 58

Authorized Place of Use

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	31	NW SE	54	10.40

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.

3. Application T-7298 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	3 W	WM	20	NE NE	67	2.40
5 S	3 W	WM	20	SE NE	67	8.00

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

Certificate: 51493 in the name of Palmer Creek Water District Improvement Co. (perfected under Permit S-39385)

Use: IRRIGATION of 16.40 acres

Priority Date: MAY 7, 1975

Rate: 0.21 cubic feet per second

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.50 acre-feet per acre per year

Source: Willamette River, tributary to Columbia River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
6 S	3 W	WM	4	NW SW	58	4700 feet North & 1290 feet East from the SE Corner, DLC 58

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	31	NE SE	54	4.80
4 S	3 W	WM	31	NW SE	54	0.20
4 S	3 W	WM	31	SW SE	54	1.30
4 S	3 W	WM	31	SE SE	54	10.10

5. Application T-7298 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	3 W	WM	20	NE NE	67	3.30
5 S	3 W	WM	20	SE NE	67	10.40
5 S	3 W	WM	21	NW NW	67	0.60
5 S	3 W	WM	21	SW NW	67	2.10

6. Primary groundwater rights under Certificate 39555 (perfected under permit G-3863, priority date December 15, 1967) and groundwater claim GR 1426 (priority date April 17, 1958) are appurtenant to the proposed place of use. Pursuant to OAR 690-380-5120, when multiple primary rights are appurtenant to the same lands, unless the water user designates otherwise the right with the oldest date will be considered primary and all other rights shall be diminished to supplemental water rights. The applicant submitted a signed statement April 7, 2004 consenting to diminish 16.4 acres of primary water right under permit 39385 (Certificate 51493) to be supplemental to the primary groundwater right under Permit G-3863 (Certificate 39555).
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 diversion structure and ditch or a pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
10. The proposed changes would not result in enlargement of the rights.
11. The proposed changes would not result in injury to other water rights.
12. The land from which the water rights are to be moved is owned by Craig F. Coleman and Janna L. Coleman. April 7, 2004 and May 15, 2005 the applicant submitted notarized statements of consent from Craig F. Coleman and Janna L. Coleman respectively.

Conclusions of Law

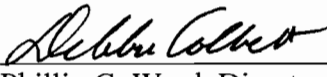
The proposed changes in the place of use in application T-7298 appear to be consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in place of use proposed in application T-7298 are approved.
2. Water right certificates 51493 and 81330 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 81330 and 51493 and any related decree.
4. 16.4 acres of water right under Certificate 51493 will be diminished from primary to supplemental status at the new place of use.
5. The proposed change shall be completed on or before October 1, 2006.
6. 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.
7. The former place of use shall no longer receive water as part of these rights.
8. 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.

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

Dated at Salem, Oregon this 23rd day of August, 2005.



FOR Phillip C. Ward, Director

Mailing date: AUG 24 2005