

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

In the Matter of Transfer Application) **FINAL ORDER APPROVING A**
T-9960, Marion County) **CHANGE IN PLACE OF USE AND**
) **PARTIAL CANCELLATION 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

Masatoshi and Susan Yamanaka, Trustees
Yamanaka Family Trust
8350 Joyhaven Lane
Salem, Oregon 97301

Findings of Fact

1. Masatoshi and Susan Yamanaka , trustees of the Yamanaka Family Trust, filed an application to transfer the place of use under Certificate 46903. The Department assigned the application number T-9960.

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

Certificate: 46903 in the name of Robert Norton
Use: Irrigation
Priority Date: May 21, 1973
Quantity: 0.033 cfs
Rate/Duty: 1/80 cfs per acre, not to exceed 2.5 acre-feet per acre per year
Acres: 2.8
Source: A well in the Pudding River Basin

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	DLC	Survey Coordinates
7	S	2	W	W.M.	25	SW SW	65	340 feet N and 40 feet E from the SW Corner, Section 25

This is a final order 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:

Township		Range		Meridian	Sec	¼ ¼	DLC	Acres
7	S	2	W	W.M.	25	SW SW	65	2.8

3. Application T-9960 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	DLC	Acres
7	S	2	W	W.M.	25	SW SW	65	1.8
7	S	2	W	W.M.	26	SE SE	65	1.0

4. 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.
5. 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.
6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
7. The proposed change would not result in enlargement of the right.
8. The proposed change would not result in injury to other water rights.

Partial Cancellation of Certificate 46903

9. Pursuant to 540.621, on July 18, 2005 the Department received an affidavit from Susan and Masatoshi Yamanaka, as trustees of the Yamanaka Family Trust, stating that they are the owner of lands and the water right appurtenant as evidenced by Certificate 46903, State Record of Water Right Certificates. The affidavit further states that a portion of the water right appurtenant to the property has been abandoned and requests the certificate be canceled. The portion of the right to be cancelled is for the use of 0.007 cfs for irrigation of 0.6 acres located as follows:

Township		Range		Meridian	Sec	¼ ¼	DLC	Acres
7	S	2	W	W.M.	25	SW SW	65	0.6

Conclusions of Law

The change in place of use proposed in application T-9960 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in place of use of 0.033 cfs on 2.8 acres proposed in application T-9960 is approved.
2. Water right certificate 46903 is cancelled.

3. The right to 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 46903 and any related decree.
4. The proposed change shall be completed on or before October 1, 2006.
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, 2007.
6. The former place of use shall no longer be irrigated as part of this water right.
7. When required by the Department, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. 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.
8. When satisfactory proof of the completed changes is received, a new certificate confirming the portion of the right transferred will be issued.
9. The portion of Certificate 46903 described in Finding #9 is cancelled.

Dated at Salem, Oregon this 27th day of September, 2005.



FOR Phillip C. Ward
Director

Mailing date: SEP 28 2005