

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

In the Matter of Transfer Application) FINAL ORDER APPROVING AN
T-9475, Lane County) ADDITIONAL POINT OF DIVERSION

Authority

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

CHARLENE A. THEE DAY, TRUSTEE
4977 LAKE DRIVE
FLORENCE, OR 97439

Agent

WOBBE & ASSOCIATES, INC.
PO BOX 3093
510 KINGWOOD STREET
FLORENCE, OR 97439

Findings of Fact

1. On June 18, 2003, Charlene A. Thee Day, Trustee, filed a transfer application to add an additional point of diversion under Certificate 30291. The Department assigned the application number T-9475.
2. On February 23, 2004, amendments to the transfer application and associated map were received from the applicant. These amendments offered clarification and correction to the source of the water and survey coordinates of the authorized point of diversion.
3. The right to be transferred is as follows:

Certificate: 30291 in the name of RUSSELL R. ROBINSON (perfected under Permit S-26957)

Use: DOMESTIC USE FOR ONE FAMILY

Priority Date: AUGUST 12, 1960

Rate: 0.01 CUBIC FOOT PER SECOND

Source: UNNAMED SPRING, tributary to WOA HINK LAKE

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an 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 137-004-080 and OAR 690-01-005, 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 Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot
19 S	12 W	WM	15	SE SE	6

Authorized Place of Use:

DOMESTIC

Twp	Rng	Mer	Sec	Q-Q	GLot
19 S	12 W	WM	15	SE SE	6

- Transfer Application T-9475 proposes to add a point of diversion approximately 600 feet downstream from the authorized point of diversion at the following location:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
19 S	12 W	WM	15	SE SE	780 FEET NORTH AND 480 FEET WEST FROM THE SOUTH MEANDER CORNER BETWEEN SECTIONS 14 AND 15

- Notice of the application for transfer was published on July 8, 2003, 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 has determined that a fish screening and/or by-pass device may be required in the future at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device.
- On January 2, 2007, the Department issued a preliminary determination proposing approval of Transfer Application T-9475 and mailed a copy to the applicants. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on January 9, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the Department's weekly notice.
- 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.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.


Conclusions of Law

The additional point of diversion proposed in Transfer Application T-9475 is consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional point of diversion proposed in Transfer Application T-9475 is approved.
2. Water right Certificate 30291 is cancelled.
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 30291 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, 2008**. 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. Within one year after receiving written notification from the Oregon Department of Fish and Wildlife (ODFW) that a fish screening and/or by-pass device is required, the water user shall install a screening and/or by-pass device, as appropriate, at the new point of diversion. The fish screening and/or by-pass device must meet ODFW's design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screening and/or by-pass device meets ODFW's criteria. Once installed the water user shall maintain and operate the fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 12th day of February 2007.


For Phillip C. Ward, Director

Mailing date: FEB 15 2007