

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

In the Matter of Transfer Application)
T-9601, Morrow County, Oregon)
)
) **FINAL ORDER APPROVING CHANGE**
) **IN PLACE OF USE, POINT OF**
) **DIVERSION, AND CHARACTER OF**
) **USE**

ORS 537.705 and 540.505 to 540.580 establish 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. ORS 537.211(4) establishes the process under which a permittee may request amendment of a permit to change the authorized place of use. ORS 540.621 establishes the process for cancellation of a water right when the owner certifies that the right has been abandoned.

Applicant

Port of Morrow
P.O. Box 200
Boardman, OR 97818

Findings of Fact

1. The Port of Morrow filed a transfer application to change the place of use, to change the point of diversion from surface water to two points of appropriation, and to change the character of use under Certificate 76360 and to change the place of use under PermitG-12729. The Department assigned the application number T-9601.
2. The portions of the rights to be transferred is as follows:

PRIMARY IRRIGATION

Certificate: 76360 in the name of Prudential Insurance Company of America
Use: Primary Irrigation
Priority Date: November 5, 1971
Quantity: 51.74 cubic feet per second (cfs)
Rate/Duty: 1/40 cfs per acre, not to exceed 4½ acre-feet per acre
Acres: 2,679.0
Source: Columbia River, tributary of the Pacific Ocean

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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Lot	Location
5	N	25	E	W.M.	35	SW SE	3	80'N & 2480'W from SE corner, Sec. 35

SUPPLEMENTAL IRRIGATION

The permit to appropriate the public waters to be amended is as follows:

Permit: G-12729, in the name of Port of Morrow

Use: Supplemental Irrigation

Priority Date: January 22, 1993

Quantity: 6.35 cubic feet per second (cfs)

Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre

Acres: 783.7

Source: Well 4A, Well 5A, Port Well #6 and Port Well #7, within the Umatilla River Basin

Period of Use: March 1 through April 15 and October 1 through October 31 for irrigation

Authorized Points of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Location
4	N	25	E	W.M.	1	NE NW	Well 4A – 150'S & 2550'E from NW corner, Section 1
4	N	25	E	W.M.	1	NE NW	Well 5A – 60'S & 1380'E from NW corner, Section 1
4	N	25	E	W.M.	10	SW NE	Port Well #6 – 120'N & 2400'W from E¼ corner, Section 10
4	N	25	E	W.M.	10	SW NE	Port Well #7 – 50'N & 2060'W from E¼ corner, Section 10

Authorized Places of Use for Certificate 76360 and Permit G-12729:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres (C#76360) Primary	Acres (G-12729) Supplemental
4	N	25	E	W.M.	1	NE NE	1	39.0	22.0
4	N	25	E	W.M.	1	NW NE	2	39.6	31.6
4	N	25	E	W.M.	1	SW NE		37.2	37.2
4	N	25	E	W.M.	1	SE NE		21.2	21.2
4	N	25	E	W.M.	1	NE NW	3	37.6	2.4
4	N	25	E	W.M.	1	NW NW	4	39.5	0.2
4	N	25	E	W.M.	1	SW NW		32.7	22.9
4	N	25	E	W.M.	1	SE NW		40.0	39.5
4	N	25	E	W.M.	1	NE SW		33.6	33.6
4	N	25	E	W.M.	1	NW SW		16.8	31.3
4	N	25	E	W.M.	1	NE SE		38.0	38.0
4	N	25	E	W.M.	1	NW SE		36.0	36.0
4	N	25	E	W.M.	1	SW SE		12.8	12.8

Township		Range		Meridian	Sec	¼ ¼		Lot	Acres (C#76360) Primary	Acres (G-12729) Supplemental
4	N	25	E	W.M.	1	SE	SE		37.1	37.1
TOTAL									461.1	365.8
4	N	25	E	W.M.	2	NE	NE	1	40.9	
4	N	25	E	W.M.	2	NW	NE	5	10.3	
4	N	25	E	W.M.	2	NW	NE	6	3.4	
4	N	25	E	W.M.	2	NW	NE		13.6	
4	N	25	E	W.M.	2	SW	NE		15.0	
4	N	25	E	W.M.	2	SE	NE		34.4	
TOTAL									117.6	
4	N	25	E	W.M.	12	NE	NE		40.0	31.1
4	N	25	E	W.M.	12	NW	NE		20.8	23.1
4	N	25	E	W.M.	12	SW	NE		5.7	8.9
4	N	25	E	W.M.	12	SE	NE		19.6	6.6
TOTAL									86.1	69.7
4	N	26	E	W.M.	4	SW	NW		13.7	
4	N	26	E	W.M.	4	NW	SW		4.0	
4	N	26	E	W.M.	4	SW	SW		32.6	
4	N	26	E	W.M.	4	SE	SW		3.6	
4	N	26	E	W.M.	4	SW	SE		0.5	
4	N	26	E	W.M.	4	SE	SE		22.6	
TOTAL									77.0	
4	N	26	E	W.M.	5	SW	NE		5.8	
4	N	26	E	W.M.	5	SW	NW		1.7	
4	N	26	E	W.M.	5	NE	SW		23.6	
4	N	26	E	W.M.	5	NW	SW		28.4	
4	N	26	E	W.M.	5	SW	SW		19.6	
4	N	26	E	W.M.	5	SE	SW		4.8	
4	N	26	E	W.M.	5	NE	SE		19.0	
4	N	26	E	W.M.	5	NW	SE		38.0	
4	N	26	E	W.M.	5	SW	SE		20.2	
4	N	26	E	W.M.	5	SE	SE		36.0	
TOTAL									197.1	
4	N	26	E	W.M.	6	SW	NE		1.8	1.8
4	N	26	E	W.M.	6	SE	NE		10.8	1.8
4	N	26	E	W.M.	6	NE	NW	3	32.4	32.4
4	N	26	E	W.M.	6	NW	NW	4	39.6	32.3
4	N	26	E	W.M.	6	SW	NW	5	12.0	13.0

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres (C#76360) Primary	Acres (G-12729) Supplemental
4	N	26	E	W.M.	6	SE NW		8.5	6.3
4	N	26	E	W.M.	6	NE SW		34.2	34.2
4	N	26	E	W.M.	6	NW SW	6	36.0	36.0
4	N	26	E	W.M.	6	SW SW	7	41.8	40.4
4	N	26	E	W.M.	6	SE SW		40.0	35.0
4	N	26	E	W.M.	6	NE SE		40.0	31.2
4	N	26	E	W.M.	6	NW SE		33.8	33.8
4	N	26	E	W.M.	6	SW SE		40.0	22.0
4	N	26	E	W.M.	6	SE SE		40.0	19.4
TOTAL								410.9	339.6
4	N	26	E	W.M.	7	NE NE		40.0	
4	N	26	E	W.M.	7	NW NE		40.0	
4	N	26	E	W.M.	7	SW NE		24.6	
4	N	26	E	W.M.	7	SE NE		25.2	
4	N	26	E	W.M.	7	NE NW		40.0	1.5
4	N	26	E	W.M.	7	NW NW	1	42.1	7.1
4	N	26	E	W.M.	7	SW NW	2	35.2	
4	N	26	E	W.M.	7	SE NW		40.0	
4	N	26	E	W.M.	7	NE SW		5.6	
4	N	26	E	W.M.	7	NW SW	3	0.1	
4	N	26	E	W.M.	7	NE SE		21.4	
4	N	26	E	W.M.	7	NW SE		2.5	
4	N	26	E	W.M.	7	SE SE		0.2	
TOTAL								316.9	8.6
4	N	26	E	W.M.	8	NE NE		32.8	
4	N	26	E	W.M.	8	NW NE		39.0	
4	N	26	E	W.M.	8	SW NE		35.8	
4	N	26	E	W.M.	8	SE NE		34.8	
4	N	26	E	W.M.	8	NE NW		19.6	
4	N	26	E	W.M.	8	NW NW		20.7	
4	N	26	E	W.M.	8	SW NW		18.5	
4	N	26	E	W.M.	8	SE NW		33.8	
4	N	26	E	W.M.	8	NE SW		38.8	
4	N	26	E	W.M.	8	NW SW		34.8	
4	N	26	E	W.M.	8	SW SW		9.6	
4	N	26	E	W.M.	8	SE SW		23.5	
4	N	26	E	W.M.	8	NE SE		40.0	

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres (C#76360) Primary	Acres (G-12729) Supplemental
4	N	26	E	W.M.	8	NW SE		40.0	
4	N	26	E	W.M.	8	SW SE		33.2	
4	N	26	E	W.M.	8	SE SE		32.0	
TOTAL								486.9	
4	N	26	E	W.M.	9	NE NE		34.6	
4	N	26	E	W.M.	9	NW NE		24.6	
4	N	26	E	W.M.	9	SW NE		37.7	
4	N	26	E	W.M.	9	SE NE		39.7	
4	N	26	E	W.M.	9	NE NW		16.7	
4	N	26	E	W.M.	9	NW NW		26.1	
4	N	26	E	W.M.	9	SW NW		31.9	
4	N	26	E	W.M.	9	SE NW		33.2	
4	N	26	E	W.M.	9	NE SW		39.0	
4	N	26	E	W.M.	9	NW SW		40.0	
4	N	26	E	W.M.	9	SW SW		29.2	
4	N	26	E	W.M.	9	SE SW		32.0	
4	N	26	E	W.M.	9	NE SE		39.8	
4	N	26	E	W.M.	9	NW SE		38.1	
4	N	26	E	W.M.	9	SW SE		29.2	
4	N	26	E	W.M.	9	SE SE		33.6	
TOTAL								525.4	
Total								2679.0	783.7

3. Certificate 76360 contains a scrivener's error. The certificate describes 2.6 acres as located in Lot 3 (SW¼ SE¼), Section 35, Township 4 North, Range 25 East, W.M. The correct location is Lot 3 (SW¼ SE¼), Section 35, Township 5 North, Range 25 East, W. M.
4. On January 12, 2004, affidavits were received from Port of Morrow, owner of certain land and the water right appurtenant to it. A portion of the water right has been abandoned and is requested to be canceled. The portion is described by Certificate 76360, State Record of Water Right Certificates. The date of Priority is November 5, 1971. The water use was for irrigation of 42.1 acres from Columbia River, a tributary of the Pacific Ocean. The amount used was 0.81 cubic foot per second. The abandoned portion is located as follows:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres
4	N	26	E	W.M.	6	SW NW	5	17.6
4	N	26	E	W.M.	6	SE NW		21.9
5	N	25	E	W.M.	35	SW SE	3	2.6*
Total								42.1

Described at the correct location as identified in Finding of Fact 3.

5. The applicant requests to cancel a portion of permit G-12729. The applicant has submitted a statement that a portion of the water right permit has been abandoned and is requested to be canceled. The date of priority is January 22, 1993. The water use is for supplemental irrigation of 3.48 acres from Well 4A, Well 5A, Port Well #6 and Port Well #7, within the Umatilla River Basin. The amount authorized for used is 0.03 cubic foot per second. The abandoned portion is located as follows:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres
4	N	25	E	W.M.	1	NW NE		3.48
TOTAL								3.48

6. The original completion date for Permit G-12729 was October 1, 1998. However, the completion date has been extended to October 1, 2007.
7. The application proposes to change the point of diversion for the rights under Certificate 76360 from surface water to groundwater (two points of diversion – Mining Pond and Toadvin Pond. The proposed new points of diversion are not within the statutorily prescribed distance of the existing points of diversion. However, the applicant has submitted a report prepared by a registered geologist demonstrating that the new points of diversion will appropriation ground water from an unconfined aquifer that is hydraulically connected to the surface water source and will affect the surface water source similarly to the authorized point of diversion.
8. The Department has reviewed the report and concurs with the conclusion that the pumping of the proposed ground water point of appropriation will affect the Columbia River similarly to the authorized point of diversion. Stream depletion will likely greatly exceed 50 percent after 10 days of continuous pumping – the threshold for establishing a similar effect.
9. Application T-9601 proposes to move the authorized point of diversion for the primary rights to be transferred to the North Farm (Port of Morrow) approximately 2,175 feet east from the existing point of diversion #1 (Columbia River) in the Umatilla basin to POA #2 – Mining Pond located at:

Township		Range		Meridian	Sec	¼ ¼	Lot	Location
5	N	25	E	W.M.	35	SE SE		110' N & 180' W of SE Corner, Sec. 35

10. Application T-9601 proposes to change the place of use for the above described rights to the North Farm (Port of Morrow) located at:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres (Primary)	Acres (Supplemental)
4	N	25	E	W.M.	1	NE NE	1	30.3	30.3
4	N	25	E	W.M.	1	NW NE	2	33.8	33.8
4	N	25	E	W.M.	1	SW NE		34.3	34.3
4	N	25	E	W.M.	1	SE NE		20.0	20.0
4	N	25	E	W.M.	1	NE NW	3	0.8	0.8

Township		Range		Meridian	Sec	¼ ¼		Lot	Acres (Primary)	Acres (Supplemental)
4	N	25	E	W.M.	1	NW	NW	4	5.9	
4	N	25	E	W.M.	1	SW	NW		25.1	20.3
4	N	25	E	W.M.	1	SE	NW		37.3	37.3
4	N	25	E	W.M.	1	NE	SW		35.8	35.8
4	N	25	E	W.M.	1	NW	SW		18.3	18.3
4	N	25	E	W.M.	1	NE	SE		35.4	35.4
4	N	25	E	W.M.	1	NW	SE		34.7	34.7
4	N	25	E	W.M.	1	SW	SE		11.7	11.7
4	N	25	E	W.M.	1	SE	SE		33.8	33.8
TOTAL									357.2	346.5
4	N	25	E	W.M.	2	NE	NE	1	35.5	
4	N	25	E	W.M.	2	NW	NE		3.3	
4	N	25	E	W.M.	2	SE	NE		29.3	
TOTAL									68.1	
4	N	25	E	W.M.	12	NE	NE		38.1	38.1
4	N	25	E	W.M.	12	NW	NE		17.5	17.5
4	N	25	E	W.M.	12	SW	NE		9.2	9.2
4	N	25	E	W.M.	12	SE	NE		15.2	1.6
4	N	25	E	W.M.	12	SE	NW		0.1	0.1
TOTAL									80.1	66.5
4	N	26	E	W.M.	4	SW	NW		12.8	
4	N	26	E	W.M.	4	NW	SW		0.5	
4	N	26	E	W.M.	4	SW	SW		31.2	
TOTAL									44.5	
4	N	26	E	W.M.	5	SW	NE		2.4	
4	N	26	E	W.M.	5	NE	SW		13.6	
4	N	26	E	W.M.	5	NW	SW		20.7	
4	N	26	E	W.M.	5	SW	SW		9.7	
4	N	26	E	W.M.	5	SE	SW		1.7	
4	N	26	E	W.M.	5	NE	SE		1.4	
4	N	26	E	W.M.	5	NW	SE		28.4	
4	N	26	E	W.M.	5	SW	SE		18.2	
4	N	26	E	W.M.	5	SE	SE		36.5	
TOTAL									132.6	
4	N	26	E	W.M.	6	SW	NE		0.5	0.5
4	N	26	E	W.M.	6	SE	NE		6.6	6.6
4	N	26	E	W.M.	6	NE	NW	3	31.1	31.1

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres (Primary)	Acres (Supplemental)
4	N	26	E	W.M.	6	NW NW	4	34.5	34.5
4	N	26	E	W.M.	6	SW NW	5	12.0	12.0
4	N	26	E	W.M.	6	SE NW		8.5	8.5
4	N	26	E	W.M.	6	NE SW		32.4	32.4
4	N	26	E	W.M.	6	NW SW	6	30.9	30.9
4	N	26	E	W.M.	6	SW SW	7	39.7	39.7
4	N	26	E	W.M.	6	SE SW		40.1	38.0
4	N	26	E	W.M.	6	NE SE		34.3	34.3
4	N	26	E	W.M.	6	NW SE		31.0	31.0
4	N	26	E	W.M.	6	SW SE		33.7	20.2
4	N	26	E	W.M.	6	SE SE		18.0	18.0
TOTAL								353.3	337.7
4	N	26	E	W.M.	7	NE NE		36.3	
4	N	26	E	W.M.	7	NW NE		32.9	
4	N	26	E	W.M.	7	SW NE		29.6	
4	N	26	E	W.M.	7	SE NE		24.6	
4	N	26	E	W.M.	7	NE NW		30.6	12.0
4	N	26	E	W.M.	7	NW NW	1	29.3	21.0
4	N	26	E	W.M.	7	SW NW	2	30.5	
4	N	26	E	W.M.	7	SE NW		40.9	
4	N	26	E	W.M.	7	NE SW		11.2	
4	N	26	E	W.M.	7	NW SW	3	0.4	
4	N	26	E	W.M.	7	NE SE		15.7	
4	N	26	E	W.M.	7	NW SE		0.9	
4	N	26	E	W.M.	7	SE SE		0.6	
TOTAL								283.5	33.0
4	N	26	E	W.M.	8	NE NE		34.9	
4	N	26	E	W.M.	8	NW NE		39.1	
4	N	26	E	W.M.	8	SW NE		19.4	
4	N	26	E	W.M.	8	SE NE		23.0	
4	N	26	E	W.M.	8	NE NW		17.6	
4	N	26	E	W.M.	8	NW NW		21.7	
4	N	26	E	W.M.	8	SW NW		21.2	
4	N	26	E	W.M.	8	SE NW		30.2	
4	N	26	E	W.M.	8	NE SW		34.4	
4	N	26	E	W.M.	8	NW SW		30.5	
4	N	26	E	W.M.	8	SW SW		6.5	

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres (Primary)	Acres (Supplemental)
4	N	26	E	W.M.	8	SE SW		14.9	
4	N	26	E	W.M.	8	NE SE		34.2	
4	N	26	E	W.M.	8	NW SE		33.3	
4	N	26	E	W.M.	8	SW SE		32.5	
4	N	26	E	W.M.	8	SE SE		33.5	
TOTAL								426.9	
4	N	26	E	W.M.	9	NE NE		12.7	
4	N	26	E	W.M.	9	NW NE		2.7	
4	N	26	E	W.M.	9	SW NE		36.0	
4	N	26	E	W.M.	9	SE NE		38.3	
4	N	26	E	W.M.	9	NE NW		0.4	
4	N	26	E	W.M.	9	NW NW		27.4	
4	N	26	E	W.M.	9	SW NW		25.9	
4	N	26	E	W.M.	9	SE NW		28.4	
4	N	26	E	W.M.	9	NE SW		36.8	
4	N	26	E	W.M.	9	NW SW		37.1	
4	N	26	E	W.M.	9	SW SW		31.2	
4	N	26	E	W.M.	9	SE SW		32.2	
4	N	26	E	W.M.	9	NE SE		30.5	
4	N	26	E	W.M.	9	NW SE		36.4	
4	N	26	E	W.M.	9	SW SE		30.0	
4	N	26	E	W.M.	9	SE SE		30.8	
TOTAL								436.8	
Total								2183.0	783.7

11. Application T-9601 also proposes to change the character of use of 92.8 acres from the above described primary right (Certificate 76360) to municipal use. The season of use will be restricted to March 1st to October 31st. The amount of water to which this use is entitled under this right is limited to an amount actually beneficially used and shall not exceed 1.79 cubic feet per second or its equivalent in case of rotation, measured at the point of diversion from the source and shall be further limited to a diversion of not to exceed 417.6 acre-feet during the season of each year.

12. Application T-9601 proposes to provide water for municipal use from the new POA #2 (Mining Pond) located:

Township		Range		Meridian	Sec	¼ ¼
4	N	25	E	W.M.	1	ALL
4	N	25	E	W.M.	2	ALL
4	N	25	E	W.M.	3	S½ S½ N½ SE¼

Township		Range		Meridian	Sec	¼ ¼
4	N	25	E	W.M.	3	S½ SE¼
4	N	25	E	W.M.	3	S½ S½ N½ SW¼
4	N	25	E	W.M.	3	S½ SW¼
4	N	25	E	W.M.	4	S½ S½ N½ SE¼
4	N	25	E	W.M.	4	S½ NE¼ SW¼
4	N	25	E	W.M.	4	SE¼ SW¼
4	N	25	E	W.M.	9	N½ NE¼
4	N	25	E	W.M.	9	N½S½NE¼
4	N	25	E	W.M.	9	NE¼ NW¼
4	N	25	E	W.M.	9	N½ SE¼ NW¼
4	N	25	E	W.M.	10	ALL
4	N	25	E	W.M.	11	ALL
4	N	25	E	W.M.	12	ALL
4	N	25	E	W.M.	13	ALL
4	N	25	E	W.M.	14	ALL
4	N	25	E	W.M.	15	ALL
4	N	25	E	W.M.	22	ALL
4	N	25	E	W.M.	23	ALL
4	N	25	E	W.M.	24	ALL
4	N	26	E	W.M.	3	NW¼ NW¼ NW¼
4	N	26	E	W.M.	4	ALL
4	N	26	E	W.M.	5	ALL
4	N	26	E	W.M.	6	ALL
4	N	26	E	W.M.	7	ALL, north of State Hwy #730 and U.P.R.R
4	N	26	E	W.M.	8	ALL, north of U.P.R.R.
4	N	26	E	W.M.	9	ALL
4	N	26	E	W.M.	18	NW¼, south of frontage road
5	N	26	E	W.M.	31	ALL, south of Columbia Blvd
5	N	26	E	W.M.	32	ALL
5	N	26	E	W.M.	33	ALL

13. Application T-9601 proposes to move the authorized point of diversion for the primary rights to be transferred to the South Farm (Levy Farms) approximately 10,000 feet southwest from the existing point of diversion #1 in the Umatilla River Basin to a POA (Toadvin Pond) located at:

Township		Range		Meridian	Sec	¼ ¼	Lot	Location
4	N	25	E	W.M.	10	NW NE		1197' S & 1340' W of NE Corner, Sec. 10

14. Application T-9601 also proposes to change the place of use for (the remaining) portion of the above described right (Certificate 76360/primary only) for the South Farm (Levy Farms) to:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres
4	N	25	E	W.M.	23	NE NE		31.6
4	N	25	E	W.M.	23	NW NE		30.5
4	N	25	E	W.M.	23	SW NE		35.8
4	N	25	E	W.M.	23	SE NE		31.3
4	N	25	E	W.M.	23	NE NW		31.4
4	N	25	E	W.M.	23	NW NW		30.8
4	N	25	E	W.M.	23	SW NW		35.6
4	N	25	E	W.M.	23	SE NW		36.3
4	N	25	E	W.M.	23	NE SW		5.0
4	N	25	E	W.M.	23	NW SW		4.1
4	N	25	E	W.M.	23	NE SE		32.2
4	N	25	E	W.M.	23	NW SE		35.8
4	N	25	E	W.M.	23	SW SE		29.9
4	N	25	E	W.M.	23	SE SE		32.9
TOTAL								403.2

15. 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.
16. 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.
17. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
18. The proposed change would not result in enlargement of the right.
19. The proposed change would not result in injury to other water rights.

Conclusions of Law

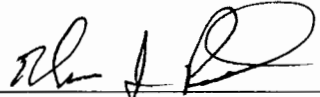
The changes in place of use, change in point of diversion to groundwater (two points of appropriation – Mining Pond and Toadvin Pond) and character of use proposed in application T-9601 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change(s) in point of diversion, place of use, and character of use proposed in application T-9601 are approved.
2. The abandoned portion of the certificated right is cancelled pursuant to ORS 540.621. Proof shall not be made on the abandoned portion of the permit.
3. Water right certificate 76360 is cancelled. A new certificate will be issued describing that portion of the right not involved in this transfer.
4. 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 Water Right Certificate 76360.
5. The use of water authorized under G-12729 continues to be restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in permit G-12729.
6. Water shall be acquired from the same surface water source as the original point of diversion.
7. The proposed change shall be completed on or before October 1, 2006.
8. 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.
9. The quantity of water diverted at the new points of diversion (two points of appropriation – Mining Pond and Toadvin Pond), together with that diverted at the original point of diversion, shall not exceed the quantity of water lawfully available at the original point of appropriation.
10. Prior to diverting water at the new points of appropriation, 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.
11. Prior to diverting water for the new character of use, 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.
12. The former place of use and character of use shall no longer receive water under the original authorized use of these water rights.

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

Dated at Salem, Oregon this 29th day of November 2004.



Phillip C. Ward
Director

Mailing date: NOV 29 2004