

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

In the Matter of Transfer Application                     )  
T-9418, Deschutes County, Oregon                     )

FINAL ORDER

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 appropriation, 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**

James Cowan  
PO Box 628  
Sisters OR 97759

Martha O. Pagel  
Schwabe, Williamson, & Wyatt P.C.  
1211 SW 5th Ave Suite 1700  
Portland OR 97204

**Findings of Fact**

1. James Cowan filed an application to change the place of use and character of use under Certificate 79171. The Department assigned the application number T-9418.
2. James W. and Nancy L. Cowan are the landowners. Martha O. Pagel is the agent authorized to act on behalf of the applicant.
3. The portion of the right to be transferred is as follows:

**Certificate:** 79171 in the name of James and Nancy Cowan  
**Use:** Irrigation  
**Priority Date:** October 18, 1994  
**Quantity:** 0.028 cfs  
**Rate/Duty:** 1/80 cfs per acre, not to exceed 3 acre-feet per acre per year  
**Acres:** 2.2  
**Source:** Well in the Deschutes Basin

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in an uncontested 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 Appropriation:**

Township		Range		Meridian	Sec	¼ ¼	Location
16	S	10	E	W.M.	2	NE SE	1143' S & 474' W of the NE corner of Section 2

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼	Acres
16	S	10	E	W.M.	2	NE SE	1.51
16	S	10	E	W.M.	2	SW SE	0.06
16	S	10	E	W.M.	2	SE SE	0.63

4. Application T-9418 proposes to change the character of use to storage (pond maintenance) for recreation, aesthetics, and fish and wildlife purposes.

5. Application T-9418 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Acres
16	S	10	E	W.M.	2	NW SE	2.2

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

**Conclusions of Law**

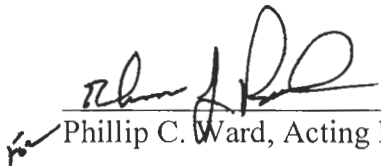
The changes in place of use and character of use proposed in application T-9418 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

- The changes proposed in T-9418 are approved, subject to the following conditions.
- Certificate 79171 is cancelled; Certificate 80667 shall be issued to describe the remaining right.

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 79171 and any related decree.
4. The proposed change shall be completed on or before October 1, 2005.
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, 2006.
6. Upon proof to the satisfaction of the Director, a certificate shall be issued confirming the transferred water rights.

Dated at Salem, Oregon this 7<sup>th</sup> day of June, 2004.

  
Phillip C. Ward, Acting Director

*Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Salem, OR 97301-1271*

Mailing date: JUN 11 2004