

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

In the Matter of Transfer Application	)	FINAL ORDER
T-10450, Yamhill County	)	APPROVING A CHANGE IN PLACE
	)	OF USE

**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**

PHILIP R. OLSON  
23725 SE OLD BETHEL ROAD  
AMITY, OREGON 97101-2601

**Findings of Fact**

**Background**

1. On August 29, 2007, Philip R. Olson filed an application to change the place of use under Certificates 51799 and 51801. The Department assigned the application number T-10450.
2. The portion of the first right to be transferred is as follows:

<b>Certificate:</b>	51799 in the name of PHILIP R. OLSON (perfected under Permit S-38064)
<b>Use:</b>	IRRIGATION of 26.3 ACRES
<b>Priority Date:</b>	JULY 19, 1974
<b>Rate:</b>	0.31 CUBIC FOOT PER SECOND
<b>Limit/Duty:</b>	ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir constructed under Permit R-6154.
<b>Source:</b>	ASH SWALE AND RESERVOIR CONSTRUCTED UNDER PERMIT R-6154, tributaries to SALT CREEK

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may 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	DLC	Measured Distances
5 S	4 W	WM	33	SE NW	47	2720 FEET NORTH AND 1570 FEET EAST FROM THE SW CORNER OF SECTION 33.

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	4 W	WM	33	SW NE	47	0.2
5 S	4 W	WM	33	NE SW	47	4.6
5 S	4 W	WM	33	NW SW	47	0.7
5 S	4 W	WM	33	SW SW	47	3.7
5 S	4 W	WM	33	SE SW	47	6.6
5 S	4 W	WM	33	NE SE	47	1.3
5 S	4 W	WM	33	NW SE	47	2.6
5 S	4 W	WM	33	SW SE	47	5.4
5 S	4 W	WM	33	SE SE	47	1.2
Total						26.3

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

**Certificate:** 51801 in the name of PHILIP OLSON (perfected under Permit S-41972)

**Use:** SUPPLEMENTAL IRRIGATION of 26.3 ACRES

**Priority Date:** SEPTEMBER 30, 1977

**Rate:** 0.33 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir constructed under Permit R-6642, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

**Source:** UNNAMED DRAINAGEWAY AND RESERVOIR CONSTRUCTED UNDER PERMIT R-6642, tributary to ASH SWALE

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	4 W	WM	33	NE SW	47	1860 FEET NORTH AND 1450 FEET EAST FROM THE SW CORNER OF SECTION 33.

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	4 W	WM	33	SW NE	47	0.2
5 S	4 W	WM	33	NE SW	47	4.6
5 S	4 W	WM	33	NW SW	47	0.7
5 S	4 W	WM	33	SW SW	47	3.7

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	4 W	WM	33	SE SW	47	6.6
5 S	4 W	WM	33	NE SE	47	1.3
5 S	4 W	WM	33	NW SE	47	2.6
5 S	4 W	WM	33	SW SE	47	5.4
5 S	4 W	WM	33	SE SE	47	1.2
Total						26.3

4. Transfer Application T-10450 proposes to change the place of use of both rights to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	4 W	WM	33	SE NW	47	3.2
6 S	4 W	WM	4	NE NW	40	14.6
6 S	4 W	WM	4	NW NW	40	8.5
Total						26.3

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	4 W	WM	33	SE NW	47	3.2
6 S	4 W	WM	4	NE NW	40	14.6
6 S	4 W	WM	4	NW NW	40	8.5
Total						26.3

5. Notice of the application for transfer was published on September 4, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. On September 8, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10450 to the applicant. The cover letter for the draft Preliminary Determination set forth a deadline of October 9, 2008, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
7. On January 6, 2009, the Department issued a preliminary determination proposing to approve Transfer T-10450 and mailed a copy to the applicant. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on January 13, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

***Transfer Review Criteria [OAR 690-380-4010(2)]***

8. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Application T-10450.
10. The proposed change would not result in enlargement of the rights.
11. The proposed change would not result in injury to other water rights.

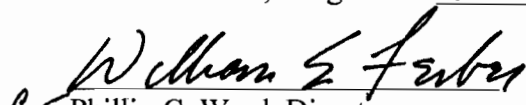
### Conclusions of Law

The change in place of use proposed in Transfer Application T-10450 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

### Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-10450 is approved.
2. 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 51799 and 51801 and any related decree.
3. Water right certificates 51799 and 51801 are cancelled. New certificates will be issued describing the portions of the rights not affected by this transfer.
4. The former place of use of the transferred rights shall no longer receive water under the rights.
5. Prior to diverting water, the water user shall install 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 measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.
6. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. 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.
7. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 20<sup>th</sup> day of February 2009.

  
Phillip C. Ward, Director

Mailing Date: FEB 24 2009