

of 2.5 acre feet per acre, or its equivalent for each acre irrigated, and shall be further limited to a total diversion of not to exceed 120.0 acre feet per year.

Source: DENLEY BROTHERS RESERVOIR, tributary to the NORTH FORK UMPQUA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
25 S	5 W	WM	23	SE SE

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
25 S	5 W	WM	23	NE SE	102	1.00

- Application T-10545 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
25 S	5 W	WM	23	NE SE	100	1.00

- Notice of the application for transfer was published on March 4, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On August 28, 2009, the Department contacted the applicant by written correspondence to notify the applicant of the deficiencies in the application. The Department requested that the deficiencies be resolved by September 29, 2009. No response was received from the applicant.
- On October 1, 2009, the Department sent an additional letter to the applicant outlining the deficiencies in the application. The letter set a deadline of November 2, 2009, for the applicant to respond.
- On October 29, 2009, the applicant contacted the Department by telephone requesting additional time to provide the requested information. The Department verbally informed the applicant that an extension would be granted if the applicant submitted the partial cancellation form. On November 2, 2009, the applicant verbally notified the Department that he would send the partial cancellation that week.
- On November 23, 2009, the applicant submitted an Affidavit for the Partial Cancellation of a Water Right Certificate for Certificate 973.
- On December 10, 2009, the Department mailed to the applicant a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10545. The draft Preliminary Determination cover letter set forth a deadline of January 14, 2009, 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.

10. On January 13, 2009, the applicant submitted an Affidavit Consenting to the Proposed Water Right Transfer from the adjoining land owner.
11. On January 15, 2010, the Department issued a Preliminary Determination proposing to approve Transfer T-10545 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on January 26, 2010, 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)]

12. Water has been used within the five-year period prior to submittal of the transfer application on the lands described in Finding of Fact # 2 according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
13. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-10545.
14. The proposed change would not result in enlargement of the right.
15. The proposed change would not result in injury to other water rights.

Partial Cancellation of a Water Right

16. A Department investigation revealed water right Certificate 973 covers a portion of the lands involved in this transfer.
17. On November 23, 2009, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from Randy and Vicki Denley. The right to be cancelled is as follows:

Certificate: 973 in the name of J.F. LUSE CO. (perfected under Permit E-89, S-553)
Use: IRRIGATION of 2.87 ACRES AND DOMESTIC
Priority Date: MARCH 30, 1911
Rate: 0.007 CUBIC FOOT PER SECOND
Source: SMITH CANYON CREEK, tributary to the CALAPOOYA CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
25 S	4 W	WM	9	SW SE

Authorized Place of Use to be Cancelled:

IRRIGATION AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	5 W	WM	23	NE SE	2.87

Conclusions of Law

The change in place of use proposed in Transfer Application T-10545 is consistent with the requirements of with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the abandoned right should be cancelled.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-10545 is approved. The portion of the right that has been abandoned is cancelled.
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 Certificate 31147 and any related decree.
3. Water right certificate 31147 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. Water right certificate 973 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer and cancellation, when the Department deems it necessary for further processing.
5. The Director may require the water user to install a totalizing flow meter or other suitable measuring devices at each point of diversion. If the Director notifies the water user to install totalizing flow meters or other measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices.
6. The former place of use of the transferred right shall no longer receive water under the right.
7. Prior to diversion of water, a series of posts or stakes shall be placed around the perimeter of the field in Tax Lot 102 delineating the area of allowed irrigation.
8. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. 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 change and full beneficial use of the water.

9. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 26th day of February 2010.

William E. Feiler
for Phillip C. Ward, Director

Mailing Date: MAR 05 2010