

STATE OF OREGON

In the Matter of Transfer Application)
T-7228, to Change the Point of Diversion) FINAL ORDER APPROVING A
and Place of Use of Water) TRANSFER
Yamhill County, Oregon)

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

Curtis F. Kadell and Robin L. Kadell
26401 Ballston Rd.
Sheridan, Oregon 97378

Findings of Fact

1. Virgil John Cordie and Janet R. Cordie filed an application to transfer the point of diversion and place of use of a portion of the water used under Certificate 42868. The Department assigned the application number T-7228. The application was assigned to Curtis F. Kadell and Robin L. Kadell on February 11, 2004.

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

Certificate: 42868 in the name of Virgil John Cordie

Use: Irrigation

Priority Date: April 28, 1972

Quantity: 0.25 cubic foot per second (cfs)

Rate/Duty: 1/80 cfs per acre, not to exceed 2½ acre-feet per acre

Acres: 20.0

Source: South Yamhill River, tributary to Yamhill River

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Location
5	S	6	W	W.M.	36	NW SE	2		2460' N and 1870' W from the SE Corner of Section 36

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

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
5	S	6	W	W.M.	36	NW	SE	2		1.6
5	S	6	W	W.M.	36	NW	SE		48	18.4

3. Application T-7228 proposes to move the authorized point of diversion approximately 1500 feet upstream in the South Yamhill River to:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Location
5	S	6	W	W.M.	36	SE	NW	4		2840' N and 3360' W from the SE Corner of Section 36

4. Application T-7228 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
5	S	6	W	W.M.	36	NE	SW	3		2.2
5	S	6	W	W.M.	36	NE	SW		57	8.7
5	S	6	W	W.M.	36	NW	SW		57	9.1

5. 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.
6. 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.
7. The proposed change would not result in enlargement of the right.
8. The proposed change would not result in injury to other water rights.
9. Pursuant to ORS 540.525 a condition should be included in any order approving the transfer to require the installation of a fish screen or by-pass device to prevent fish from leaving South Yamhill River and entering the diversion.
10. The changes in place of use and point of appropriation proposed are consistent with local comprehensive plans as required by ORS 197.180.

Conclusions Of Law

The proposed changes in place of use and point of diversion in application T-7228 are consistent with the requirements of ORS 540.505 to 540.580.

Notice of the Preliminary Determination was published as per ORS 540.520 and OAR 690-380-4020. No protests were filed pursuant to OAR 690-380-4030.

Order

It is hereby ORDERED:

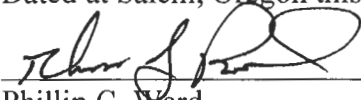
Transfer T-7228 is approved, provided the following conditions are met by the water user:

1. 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 42868 and any related decree.
2. The proposed change shall be completed on or before October 1, 2005.
3. 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.
4. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.
5. 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.
6. The water user shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction and shall be installed under the supervision of the Department of Fish and Wildlife.

Certificate 42868 is cancelled. A new certificate will be issued to confirm that portion of the right NOT involved in this transfer.

When satisfactory proof of the completed change is received, a new certificate confirming this portion of the water right shall be issued.

Dated at Salem, Oregon this 25th day of JUNE, 2004.


for Phillip C. Ward
Acting Director

Mailing date JUL 02 2004