

STATE OF OREGON

COUNTY OF WASHINGTON

ORDER APPROVING A CHANGE IN CHARACTER OF USE
AND A CHANGE IN PLACE OF USE

Pursuant to ORS 537.705, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 7346 submitted by

HARD ROCK ENTERPRISES
21880 SW FARMINGTON ROAD
BEAVERTON, OREGON 97007.

The first right to be modified, as evidenced by a PORTION of Certificate 67056, was perfected under Permit G-798 with a date of priority of MARCH 26, 1958. The right allows the use of A WELL, in the TUALATIN RIVER BASIN, for IRRIGATION OF 3.20 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.04 cubic foot per second, if available at the original well; SE¼ NW¼, SECTION 26, T 1 S, R 2 W, W.M.; 9.5 CHAINS EAST FROM THE CORNER OF JOHNSON DLC 55, or its equivalent in case of rotation, measured at the well.

The amount of water used for irrigation, together with the amount secured under any other right existing on the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2½ acre-feet per acre for each acre irrigated during the irrigation season of each year.

This is an order in 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.

The second right to be modified, as evidenced by a PORTION of Certificate 80451, was perfected under Permit G-798 with a date of priority of MARCH 26, 1958. The right allows the use of A WELL, in the TUALATIN RIVER BASIN, for NURSERY OPERATIONS ON 2.83 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.07 CUBIC FOOT PER SECOND NOT TO EXCEED 6.1 ACRE FEET PER YEAR, if available at the original well; SE¼ NW¼, SECTION 26, T 1 S, R 2 W, W.M.; 600 FEET EAST FROM THE CORNER OF JOHNSON DLC 55, or its equivalent in case of rotation, measured at the well.

The water user shall maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water used. 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 use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized places of use are as follows:

CERTIFICATE 67056
SE¼ NW¼ 3.20 ACRES
SECTION 26

CERTIFICATE 80451
SE¼ NW¼ 2.83 ACRES
SECTION 26

TOWNSHIP 1 SOUTH, RANGE 2 WEST, W.M.

The applicant proposes to raise the duty on the most northerly 0.37 acre portion of the proposed place of use of Certificate 80451. A 0.43 acre portion of Certificate 80451 will be transferred with a duty of 2.17 acre-feet per acre. The 0.43 acre will be reduced by 0.6 acre to bring the duty up to 2.5 acre-feet per acre. The rate for the 0.37 acre will remain the same as if it were 0.43 acre.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described.

The applicant proposes to change the character of use of Certificate 67056 from IRRIGATION OF 3.20 ACRES to NURSERY OPERATIONS ON 3.20 ACRES.

The applicant proposes to change the place of use to:

CERTIFICATE 67056
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 1.38 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 1.82 ACRES
SECTION 26

CERTIFICATE 80451
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 2.40 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 0.37 ACRE
SECTION 26

TOWNSHIP 1 SOUTH, RANGE 2 WEST, W.M.

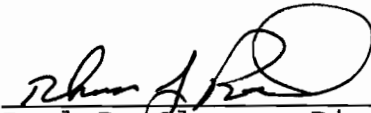
The applicant proposes to raise the duty on the most northerly 0.37 acre portion of the proposed place of use of Certificate 80451. The authorized duty for Certificate 80451 is 2.17 acre-feet per acre, the proposed duty for the 0.37 acre will be 2.50 acre-feet per acre. The rate will remain the same. The total acreage proposed to be moved under Certificate 80451 will be reduced by 0.06 acre.

THESE CHANGES TO EXISTING WATER RIGHTS MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The proposed changes shall be completed on or before October 1, 2005.
2. The use of water for the proposed nursery operation shall be limited to 0.04 cubic foot per second and shall not exceed 8.0 acre feet per acre during the calender year.
3. The former places of use shall no longer be irrigated as part of these water rights.

Certificates 67056 and 80451 are cancelled. New certificates will be issued to confirm the portions of these rights NOT involved in this transfer. When satisfactory proof of the completed changes is received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources
Director, affixed MAR 25 2004.


For Paul R. Cleary, Director