

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

In the Matter of Transfer Application) **FINAL ORDER APPROVING**
T-9765,) **TEMPORARY CHANGES IN PLACE**
Lane County, Oregon) **OF USE AND POINT OF DIVERSION**

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of diversion or appropriation 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

Daniel Dillon for Prindel Creek Farm, Inc.
95520 E. Five Rivers Road
Tidewater, OR 97390

Findings of Fact

1. Daniel Dillon for Prindel Creek Farm, Inc. filed an application to temporarily transfer the place of use and point of diversion under Certificate 49512 for a period of five years. The Department assigned the application number T-9765.

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

Certificate: 49512 in the name of Prindel Creek Farm, Inc.
Use: Irrigation
Priority Date: July 9, 1973
Quantity: 0.06 cfs
Rate/Duty: 1/80 cfs per acre, not to exceed 2½ acre-feet per acre
Acres: 5.25
Source: Five Rivers, tributary to Alsea River
Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼	Location
15	S	9	W	W.M.	27	SW NW	POD #3--2330' S and 520' E from the NW Corner of Section 27

This is a final order in other than 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		Acres
15	S	9	W	W.M.	27	SW	NW	4.05
15	S	9	W	W.M.	27	NW	SW	1.2

3. Application T-9765 proposes to change the place of use of the portion of the right to:

Township		Range		Meridian	Sec	¼ ¼		Acres
15	S	9	W	W.M.	22	SW	SW	5.25

4. As is necessary to convey the water to the proposed temporary place of use, Application T-9765 also proposes to move the authorized point of diversion approximately 3/4 mile downstream in the source to:

Township		Range		Meridian	Sec	¼ ¼		Location
15	S	9	W	W.M.	22	SW	SW	N44° 14.836', W123° 46.339'

5. Notice of the application for temporary 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. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

Conclusions of Law


The temporary changes in place of use and point of diversion proposed in application T-9765 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The changes in place of use and point of diversion proposed in application T-9765 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2004, 2005, 2006, 2007 and 2008 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2008 irrigation season.

4. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
5. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 49512.
6. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
7. When required by the Department, the water user shall install 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.
8. The water user shall maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. 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. The water user may participate in the Department of Fish and Wildlife's cost-sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.
9. The use of the remaining water right described by Certificate 49512 shall continue to be in accordance with the terms and conditions of Certificate 49512.

Dated at Salem, Oregon this 21st day of September, 2004.


Phillip C. Ward
Acting Director

Mailing date: OCT 05 2004