

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-8682, Josephine County) CHANGE IN PLACE OF USE

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

Jonathan C. and Jesse E. Spero
P.O. Box 16
Williams, Oregon 97544

Findings of Fact

1. On 2-5-2001, Jonathan C Spero filed a transfer application to change the place of use under Certificate 42080. The Department assigned the application number T-8682.
2. The owner of the land from which the water right is to be transferred (Pacifica, A Garden in the Siskiyou) has submitted affidavits approving of T-8682.
3. The applicant has requested application T-8682 be processed together with application T-8325.
4. On May 28, 2005, Jonathan Spero submitted comments via e-mail requesting that Condition 5 of the Draft Preliminary Determination be amended to not require metering prior to using water. On May 31, 2005, after consultation with the District 14 Watermaster, Condition 5 was amended.

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

Certificate: 42080 in the name of Madrone Ranch (perfected under Permit G-4486)

Use: Irrigation of 1.0 Acre, Supplemental Irrigation of 3.50 Acres

Priority Date: January 15, 1969

Rate: 0.06 cubic foot per second (cfs)

Limit/Duty: One-Eighthieth cfs per acre, not to exceed 2.50 acre-feet per acre per year

Source: A Sump Well within the Williams Creek Basin

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
38 S	5 W	WM	11	NE SE	1040 Feet South & 2600 Feet East from Center of Section 11

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 137-004-0080 you may either 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 Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
38 S	5 W	WM	11	NW SE	1.00

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
38 S	5 W	WM	11	NE SE	3.50

6. Application T-8682 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
38 S	5 W	WM	11	NE SE	1.00

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
38 S	5 W	WM	11	NE SE	0.60
38 S	5 W	WM	11	SE SE	2.00
38 S	5 W	WM	12	NW SW	0.90

7. 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.
8. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available 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 right are present.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.

Conclusions of Law

The proposed change in place of use in application T-8682 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 application T-8682 is approved.
2. Water right certificate 42080 is cancelled. A new certificate will be issued describing that portion of the right not involved in this transfer.

3. 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 42080 and any related decree.
4. The proposed change shall be completed on or before October 1, 2006.
5. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2007.
6. The former place of use of the transferred water shall no longer receive water as part of this right.
7. 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.
8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 21st day of November 2005.

For *Phillip C. Ward*
Phillip C. Ward, Director

Mailing date: NOV 22 2005