

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

In the Matter of Transfer Application                    )  
T-7567, to Change the Point of Diversion            )  
and Place of Use of Water                                )  
Clackamas County, Oregon                                )     **FINAL ORDER APPROVING A  
TRANSFER**

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**

Ross and Dorothy Iverson  
33739 S. Meridian Road  
Woodburn, OR 97071

**Receiving Landowner**

Iverson Brothers Bulb Farm, Inc.  
33739 S. Meridian Road  
Woodburn, OR 97071

**Findings of Fact**

1. Ross and Dorothy Iverson filed an application to transfer the point of diversion for 60.6 acres and the place of use for 10.0 acres under Certificate 34541. The application also proposes to transfer the place of use for 1.5 acres of supplemental rights under Certificate 60849. The Department assigned the application number T-7567.
2. The portion of the first right to be transferred is as follows:

**Certificate:** 34541 in the name of Ross Iverson

**Use:** Irrigation

**Priority Date:** December 7, 1964

**Quantity:** 0.76 cfs

**Acres:** 60.6

**Rate & Duty:** 1/80 cfs per acre irrigated, not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year

**Source:** Butte Creek, tributary to Pudding River

**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 Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Location
5	S	1	W	W.M.	25	SE NW		73	1120' N and 2930' W from the E¼ corner of Section 25

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
5	S	1	W	W.M.	24	NE SW		73	34.8
5	S	1	W	W.M.	24	SE SW		73	4.5
5	S	1	W	W.M.	24	NW SE		73	6.4
5	S	1	W	W.M.	24	SW SE		73	6.8
5	S	1	W	W.M.	25	SW NE		73	8.1

3. Application T-7567 proposes to move the authorized point of diversion approximately 1/4 mile downstream in Butte Creek to:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Location
5	S	1	W	W.M.	25	NE NW		73	6060' S and 4540' E from the NW corner of DLC 46

4. Application T-7567 proposes to change the place of use of the following portion of the right:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
5	S	1	W	W.M.	24	NE SW		73	4.0
5	S	1	W	W.M.	24	SE SW		73	4.5
5	S	1	W	W.M.	24	NW SE		73	1.5

The proposed place of use of the above acres under the right is:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
5	S	1	W	W.M.	24	NW NE			0.7
5	S	1	W	W.M.	24	SW NE	3		9.3

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

**Certificate:** 60849 in the name of Van Veen Nursery

**Use:** Supplemental irrigation

**Priority Date:** February 18, 1977

**Quantity:** 0.02 cfs

**Acres:** 1.5

**Rate & Duty:** 1/80 cfs per acre irrigated, not to exceed 2.5 acre-feet per acre each irrigation season

**Source:** House Well in the Butte Creek Basin

**Authorized Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Location
5	S	1	W	W.M.	24	SW SE		73	530' N and 470' E from the S¼ corner of Section 24

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
5	S	1	W	W.M.	24	NW SE		73	1.5

6. T-7567 proposes to change the place of use of 1.5 acres under Certificate 60849 to:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
5	S	1	W	W.M.	24	SW NE	3		1.5

7. A reservoir and a sump now cover a portion of the land under Certificate 34541. Department records indicate that the sump was built prior to June 19, 1974 and has a surface area of approximately 0.4 acre, and that the reservoir was built prior to July 16, 1985, with a surface area of 2.7 acres. The Department finds that these 3.1 acres of the water right are subject to forfeiture due to non-use. The applicant submitted an affidavit to cancel the forfeited portion of Certificate 34541. The lands proposed for cancellation are located as follows:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
5	S	1	W	WM	24	NE SW		73	3.0
5	S	1	W	WM	24	SE SW		73	0.1

8. A portion of the water right described by Permit 52392 is appurtenant to the proposed place of use. Permit 52392, issued to Ross Iverson for irrigation, supplemental irrigation and agricultural use (Nursery Operations), from Iverson Reservoir, constructed under Permit R-11827, has a priority date of April 28, 1992. The applicant proposes to diminish the portion of Permit 52392 from primary to supplemental irrigation on the following lands, should T-7567 be approved.

Township		Range		Meridian	Section	¼ ¼	Lot	DLC	Acres
5	S	1	W	WM	24	NW NE			0.7
5	S	1	W	WM	24	SW NE	3		9.3

9. 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.
10. Water has been used within the five-year period prior to filing of the application 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.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. Since listed fish species are present in Butte Creek, Oregon Department of Fish and Wildlife has requested fish screening at the new point of diversion.
14. 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.

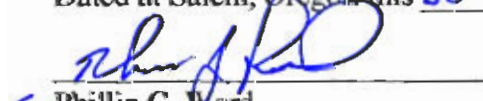
## Conclusion Of Law

The proposed changes in place of use and point of diversion in application T-7567 are consistent with the requirements of ORS 540.505 to 540.580.

### Now, therefore, it is ORDERED:

1. The changes in point of diversion and place of use proposed in application T-7567 are approved.
2. Certificates 34541 and 60849 are cancelled. A new certificate will be issued describing those portions of Certificate 60849 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 Certificates 34541 and 60849 and any related decree.
4. The proposed change shall be completed on or before October 1, 2005.
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, 2006.
6. 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.
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. 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.
9. The portion of Permit 52392 identified in Finding #8 shall be diminished to supplemental irrigation.
10. When satisfactory proof of the completed change is received, new certificates shall be issued confirming the portions of the water rights not cancelled by affidavit.

Dated at Salem, Oregon this 30<sup>th</sup> day of SEPTEMBER, 2004.

  
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Phillip C. Ward  
Acting Director

Mailing date: OCT 05 2004 -