# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	
T-9674, Yamhill County, Oregon	)	FINAL ORDER
	)	

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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**

Carlton Nursery LLC PO Box 398 Dayton, Oregon 97714

## **Findings of Fact**

Carlton Nursery LLC filed an application to transfer the place of use under Certificate 50649. The Department assigned the application number T-9674.

The full amount of the right to be transferred is as follows:

Certificate:

50649 in the name of Joe and Carl Holbrook

Use:

Irrigation

Priority Date: December 9, 1971

**Quantity:** 

0.24 cfs

Rate/Duty:

1/80 cfs per acre, not to exceed 2.5 acre-feet per acre

Acres:

19.4

Source:

Well in the Palmer Creek Basin

# **Authorized Point of Appropriation:**

Township		Range				Meridian	Sec	1/4 1/4	Lot	DLC	Location
5	S	3	W	W.M.	9	NW SW		51	1880 ft N & 920 ft E from the SW Corner of Section 9		

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:**

	Towi	nship	Rai	nge	Meridian	Sec	1/4 1/4	Lot	DLC	Acres
Г	5	S	3	W	W.M.	8	SW NE	200	51	4.1
	5	S	3	W	W.M.	8	SE NE	200	51	15.3

3. Application T-9674 proposes to change the place of use of the right to:

To	Township		Range		Meridian Sec 1/4 1/4		1/4 1/4		Lot	DLC	Acres
5		S	3	W	W.M.	9	SE	NW	500	53	19.4

- 4. 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.
- 5. 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.
- 6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
- 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.

#### Conclusions of Law

The change in place of use proposed in application T-9674 is consistent with the requirements of ORS 537.705 and 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-9674 is approved.
- 2. Water right Certificate 50649 is cancelled.
- 3. When satisfactory proof of the completed change is received, a new certificate confirming the right will be issued.
- 4. The right to 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 50649 and any related decree.
- 5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
- 6. The proposed change shall be completed on or before October 1, 2005.

- 7. 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.
- 8. When required by the Department, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. 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.

Dated at Salem, Oregon this 14th day of Juny 2004.

Phillip C. Ward Acting Director

Mailing date: JUL 1 6 2004