

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

In the Matter of Transfer Application)
T-8469, Yamhill County)
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)

FINAL ORDER APPROVING AN
ADDITIONAL POINT OF
APPROPRIATION AND A CHANGE IN
PLACE OF USE

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

Roger Hildebrandt
16835 SE Wallace Road
Dayton, Oregon 97114

Findings of Fact

1. On March 23, 2000, Roger Hildebrandt filed an application to transfer the point of appropriation and place of use under Certificate 75578. The Department assigned the application number T-8469.
2. The portion of the right to be transferred is as follows:

Certificate: 75578 in the name of Roger Hildebrandt
Use: Supplemental Irrigation
Priority Date: February 22, 1977
Quantity: 0.11 cubic foot per second
Rate/Duty: 1/80 cfs per acre, not to exceed 2.5 acre-feet per acre, limited to any deficiency in the available supply of any prior right existing for the same land.
Acres: 12.0 acres
Source: A well in the Lambert Slough Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼		Lot	Survey Coordinates
5	S	3	W	W.M.	15	SW	NW	7	2180 feet South and 1300 feet East from the NW Corner of Section 15.

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:

Township		Range		Meridian	Sec	¼ ¼		Lot	Acres
5	S	3	W	W.M.	15	SW	NW	7	12.0

- Application T-8469 proposes to add an authorized point of appropriation (well) approximately 2150 feet from the existing point of appropriation in the Lambert Slough basin to:

Township		Range		Meridian	Sec	¼ ¼		Lot	Survey Coordinates
5	S	3	W	W.M.	15	NW	NW	1	330 feet South and 170 feet East from the NW Corner of Section 15.

- Application T-8469 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼		DLC	Acres
5	S	3	W	W.M.	15	SW	NW	56	2.3
5	S	3	W	W.M.	16	SE	NE	56	9.7

- 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.
- On October 26, 2004, the applicant submitted a notarized statement stating that 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.
- On October 26, 2004, the applicant submitted proof of ownership of the “from” lands.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
- The supplemental right is being moved from a place of use to which one primary irrigation right is appurtenant onto a place of use to which a different primary irrigation right is appurtenant. However, the proposed change would not result in enlargement because the availability of water for the two primary rights is similar and the transfer will not result in additional use of the supplemental right.
- The proposed change would not result in injury to other water rights.
- Notice of the Preliminary Determination was published on the Department’s Weekly Public Notice on November 9, 2004 and in the McMinnville News-Register on April 8, 15 and 22, 2006. No protests were received in response to the notice.

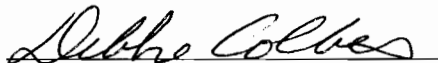
Conclusions of Law

The changes in point of appropriation and place of use proposed in application T-8469 are 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 changes in point of appropriation and place of use proposed in application T-8469 are approved.
2. Water right certificate 75578 is cancelled. A new certificate will be issued describing that portion of the right not involved in this transfer.
3. 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 75578 and any related decree.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2007**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
6. The quantity of water diverted at the additional point of appropriation (well), together with that diverted at the original point of appropriation (well), shall not exceed the quantity of water lawfully available at the original point of appropriation.
7. The former place of use shall no longer be irrigated as part of this water right.
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.
9. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 25th day of May, 2006.


For Phillip C. Ward

Mailing date: JUN 01 2006