

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

In the Matter of Transfer Application)
T-8256, Polk County) **FINAL ORDER**
)

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

JACK AND MARILYN PLATT
11070 OAK HILL ROAD
INDEPENDENCE OR 97351

Findings of Fact

1. On 4-28-1999, Schudel Enterprises filed a transfer application to change the use under Certificate 44996. The Department assigned the application number T-8256.
2. On March 17, 2000, the transfer application file was assigned to Jack and Marilyn Platt, 11070 Oak Hill Road, Independence, Oregon, 97351.
3. The portion of the right to be transferred is as follows:

Certificate: 44996 in the name of PATRICK A. OGLE (perfected under Permit S-35334)
Use: SUPPLEMENTAL IRRIGATION of 97.6 ACRES
Priority Date: JUNE 11, 1971
Rate: 0.74 CUBIC FOOT PER SECOND
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year
Source: LUCKIAMUTE R, tributary to WILLAMETTE R

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
9 S	4 W	WM	20	NE SW	10 FEET NORTH AND 5680 FEET WEST FROM THE SE CORNER OF DLC 63

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. 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:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	4 W	WM	20	NE NE	63	21.60
9 S	4 W	WM	20	SE NE	63	29.50
9 S	4 W	WM	20	NE SE	63	15.10
9 S	4 W	WM	21	NW NW	63	20.40
9 S	4 W	WM	21	SW NW	63	11.00

4. An affidavit for cancellation of two water rights was received from Jack and Marilyn Platt as follows:

Certificate: 40596 in the name of PATRICK A. OGLE

Use: STORAGE FOR IRRIGATION

Priority Date: OCTOBER 30, 1969

Rate: 9.0 ACRE FEET

Source: UNNAMED DRAINAGEWAY, tributary to the LUCKIAMUTE R

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
9 S	4 W	WM	20	SE NE

Authorized Place of Use to be Cancelled:

Twp	Rng	Mer	Sec	Q-Q	DLC
9 S	4 W	WM	20	SE NE	63

Certificate: 40597 in the name of PATRICK A. OGLE

Use: PRIMARY IRRIGATION of 97.6 ACRES

Priority Date: OCTOBER 30, 1969

Rate: 9.0 ACRE FEET

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year

Source: RESERVOIR CONSTRUCTED UNDER PERMIT R-5560, tributary to the LUCKIAMUTE R

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
9 S	5 W	WM	20	SE NE

Authorized Place of Use to be Cancelled:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	4 W	WM	20	NE NE	63	21.60
9 S	4 W	WM	20	SE NE	63	29.50
9 S	4 W	WM	20	NE SE	63	15.10
9 S	4 W	WM	21	NW NW	63	20.40
9 S	4 W	WM	21	SW NW	63	11.00

5. Application T-8256 proposes to change the character of use to PRIMARY IRRIGATION.

6. 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.
7. 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.
8. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

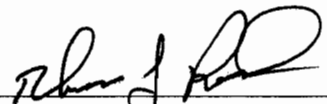
Conclusions of Law

The proposed change in use in application T-8256 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 character of use proposed in application T-8256 is approved.
2. Water right certificate 44996 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 44996 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 water rights evidenced by Certificates 40596 and 40597 are cancelled.
7. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 26th day of May 2005.


Phillip C. Ward, Director

Mailing date: MAY 31 2005