

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

In the Matter of Transfer Application                    )     FINAL ORDER APPROVING A  
T-7296, Yamhill County                                    )     CHANGE IN PLACE OF USE OF  
  )     WATER

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**

PALMER CREEK WATER DISTRICT IMPROVEMENT CO.  
P.O. Box 152  
Dayton Or 97114

**Findings of Fact**

1. On 1-26-1995, Palmer Creek Water District Improvement Co. filed a transfer application to change the place of use under Certificate 64749. The Department assigned the application number T-7296.
  
2. The portion of the right to be transferred is as follows:  
**Certificate:** 64749 in the name of PALMER CREEK WATER DISTRICT IMPROVEMENT CO. (perfected under Permit S-34436)  
**Use:** IRRIGATION of 19.70 ACRES  
**Priority Date:** MAY 28, 1969  
**Rate:** 0.25 CUBIC FEET PER SECOND  
**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 2.50 acre-feet per acre per year  
**Source:** WILLAMETTE R, tributary to COLUMBIA R

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
6 S	3 W	WM	4	NW SW	58	4700' North & 1290' East from the SE Corner of DLC 58

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	3 W	WM	7	NW NW	44	10.30
5 S	3 W	WM	7	SW NW	44	9.40

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.

3. Application T-7296 proposes to change the place of use of the right to:

**Primary Irrigation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	3 W	WM	7	SE SE	45	5.80
5 S	3 W	WM	8	SW SW	45	1.50

**Supplemental Irrigation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	3 W	WM	7	SE SE	45	3.00
5 S	3 W	WM	7	SE SE	46	6.70
5 S	3 W	WM	8	SW SW	45	1.00
5 S	3 W	WM	8	SW SW	46	1.50
5 S	3 W	WM	18	NE NE	46	0.20

4. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. In response to the notice, Phil Graf, of Boise, ID, requested to be sent a copy of the technical review [Preliminary Determination] for the transfer. A copy of the preliminary determination was sent to him April 11, 2005.
5. Water has been used within the five years prior to filing of the transfer 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.
6. A diversion structure and ditch or pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are 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.
9. Certificate 53040 (priority April 23, 1975) is appurtenant to 12.4 acres of the land to which the water right under Certificate 64749 (priority May 28, 1969) is proposed to be moved. The transfer application indicates that these 12.4 acres of senior water right (as listed in the table under #3 above) are to be diminished to be supplemental to the junior right.
10. March 22, 2005 payment of the last installment of processing fees was received.
11. A deed for the affected property was submitted April 7, 2004, indicating Fred O. Bowyer and Nancy E. Bowyer are the owners of the land from which the water is proposed to be moved. As required by OAR 690-380-3000(13 & 16), documentation that Nancy E. Bowyer consents to the transfer was received April 7, 2004. Fred O. Bowyer is deceased, and there are no lienholders to be notified.

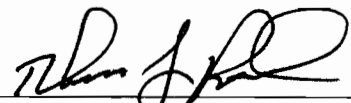
**Conclusions of Law**

The proposed changes in place of use in application T-7296 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 change in place of use proposed in application T-7296 is approved.
2. Water right certificate 64749 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 64749 and any related decree.
4. 12.4 acres of the right as listed in Finding of Fact #3 above shall be diminished to become supplemental to the junior right under Certificate 53421, and shall be exercised only when water is not available from Holdridge Creek under Certificate 53421.
5. The proposed change shall be completed on or before October 1, 2006.
6. 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.
7. The former place of use of the transferred water shall no longer receive water as part of this right.
8. 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.
9. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 13<sup>th</sup> day of JUNE, 2005.

  
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For Phillip C. Ward, Director

Mailing date: JUN 16 2005