

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-9971, Jackson County) CHANGE IN POINT OF DIVERSION
) AND PLACE OF USE

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

JOSEPHINE JACAVONE
18050 EAST EVANS CREEK ROAD
ROGUE RIVER OR 97537

Findings of Fact

1. On July 14, 2005, Josephine Jacavone filed a transfer application to change the place of use, and point of diversion under Certificate 75462. The Department assigned the application number T-9971.
2. Certificate 75462 has been superseded by Certificate 79742.
3. The portion of the right to be transferred is as follows:

Certificate: 79742 in the name of W.H. PATTILLO confirmed by Rogue River State Water Board Decree)

Use: IRRIGATION of 0.26 ACRE

Priority Date: 1871 FOR SPIGNET CREEK and
1892 FOR EAST FORK EVANS CREEK

Rate: 0.005 CUBIC FOOT PER SECOND

Source: EAST FORK EVANS CREEK, TRIBUTARY TO EVANS CREEK AND
SUPPLEMENTAL SUPPLY FROM SPIGNET CREEK, TRIBUTARY TO EAST FORK
EVANS CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Additional Information
34 S	2 W	WM	19	SE NE	BYBEE DITCH

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in 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 137-004-0080, 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:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	3 W	WM	25	NW NW	0.26

4. The applicant has provided information indicating that water has been diverted from:

Twp	Rng	Mer	Sec	Q-Q	Additional Information
34 S	2 W	WM	24	NE SW	BYBEE DITCH

5. The decree map shows two "Bibee" ditches. The upper ditch is on the north side of Evans Creek and the lower ditch is on the south side of Evans Creek. The lands described in Finding of Fact #3 are served by the lower ditch which is described in Finding of Fact #4.

6. Transfer Application T-9971 proposes to move the authorized point of diversion approximately 0.5 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
34 S	3 W	WM	25	NW NW	638 FEET SOUTH AND 390 FEET EAST FROM NW CORNER OF SECTION 25

7. Transfer Application T-9971 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	3 W	WM	25	NW NW	0.26

8. Notice of the application for transfer was published on July 26, 2005, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice. However, the Oregon Department of Fish and Wildlife did request inclusion of a condition requiring installation of proper fish screens. On May 1, 2007, the Department issued a preliminary determination proposing to approve Transfer T-9971 and mailed a copy to the applicant. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on May 8, 2007, and in The Rogue River Press newspaper on May 16, 23, and 30, 2007, pursuant to ORS 540.520 and OAR690-380-4020. No protests were filed in response to the notice.
9. 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.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
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.

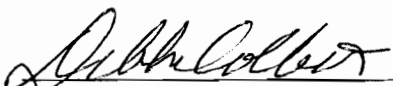
Conclusions of Law

The changes in place of use, and point of diversion proposed in Transfer Application T-9971 are consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in place of use, and point of diversion proposed in Transfer Application T-9971 are approved.
2. Water right certificate 79742 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 79742 and any related decree.
4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. 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.
5. The former place of use of the transferred water shall no longer receive water as part of this right.
6. Prior to diverting water, 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.
7. The water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction, and shall be installed under the supervision of the Department of Fish and Wildlife.
8. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 17th day of July 2007.


for Phillip C. Ward, Director

Mailing date: JUL 19 2007