

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-7235, Douglas County) CHANGE IN PLACE OF USE

Authority

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

JAMES AND GERILYNN JUTSON
4286 DEL RIO ROAD
ROSEBURG, OR 97471

Findings of Fact

Background

1. On October 3, 1994, RICHARD AND IDA MIDDLETON filed an application to change the place of use under Certificate 28416. Certificate 28416 has been superseded by Certificate 81010. The Department assigned the application number T-7235.
2. On March 1, 2010, a Request for Assignment was recorded assigning Transfer Application T-7235 to JAMES AND GERILYNN JUTSON. In addition, an amended application and map were submitted reducing the acreage to be transferred to 0.45 acre.
3. The portion of the right to be transferred is as follows:
 - Certificate:** 81010 in the name of PETER J. PON (perfected under Permit S-24057)
 - Use:** IRRIGATION of 0.45 ACRE
 - Priority Date:** FEBRUARY 15, 1956
 - Rate:** 0.006 CUBIC FOOT PER SECOND
 - Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second per acre, or its

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may 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.

equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: NORTH UMPQUA RIVER, tributary to the UMPQUA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC
26 S	6 W	WM	27	SW NE	Hannon 42

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
26 S	6 W	WM	27	SE NW	Hannon 42	0.45

4. Application T-7235 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
26 S	6 W	WM	27	SW NW	Hannon 42	0.45

5. Notice of the application for transfer was published on OCTOBER 12, 1994, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. On March 4, 2010, the Department issued a draft Preliminary Determination proposing to approve Transfer Application T-7235 and mailed a copy to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 6, 2010, for the applicants to respond.
7. On March 12, 2010, the applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.

Transfer Review Criteria [OAR 690-380-4010(2)]

8. Water has been used within the five-year period prior to submittal of the transfer application according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-7235.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in place of use proposed in Transfer Application T-7235 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 place of use proposed in application T-7235 is approved.
2. 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 81010 and any related decree.
3. Water right certificate 81010 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The Director may require the water user to install a totalizing flow meter or other suitable measuring devices at each point of diversion. If the Director notifies the water user to install totalizing flow meters or other measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices.
5. The former place of use of the transferred right shall no longer receive water under the right.
6. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.
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 15th day of April 2010.

Phillip C. Ward
Phillip C. Ward, Director

Mailing Date: APR 15 2010