

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	2	NW NE	50	4.8

3. Application T-9841 proposes to change the place of use of the right (68690) to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	2	NE NE	50	2.9
1 S	3 W	WM	2	SE NE	50	1.9

4. The portion of the second right to be transferred is as follows:

Certificate: 68718 in the name of EDMUND DUYCK (perfected under Permit S-14050)

Use: IRRIGATION of 4.8 ACRES

Priority Date: OCTOBER 9, 1939

Rate: 0.06 CUBIC FOOT PER SECOND (cfs)

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

Source: DAIRY CREEK, tributary to TUALATIN RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
1 S	3 W	WM	1	SW NW	50	1050 FEET NORTH AND 480 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 1

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	2	NE NE	50	2.9
1 S	3 W	WM	2	SE NE	50	1.9

5. Application T-9841 proposes to change the place of use of the right (68718) to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	2	NW NE	50	4.8

6. Upon review of the proposed transfer of primary irrigation right under Certificate 68690 described in Finding #3, the Department discovered that a portion of the area where the right is proposed to be moved to is already covered by two primary irrigation rights from the same water source (Dairy Creek), being Certificates 68690 (priority date May 17, 1988) and 68718 (priority date October 9, 1939). The primary irrigation right under Certificate 68718 is proposed to be transferred off that land as described in Finding #5, but because Certificate 68690 diverts water from the same source, it cannot follow Certificate 68718 as supplemental.

7. As described in Finding #6, because primary irrigation rights under Certificate 68690 already exist on a portion of the area where part of the right under Certificate 68690 is proposed to be moved, that piece of the proposed transfer cannot be approved.
8. Notice of the application for transfer was published on January 11, 2005, pursuant to ORS 540.520 and OAR 690-380-4000. No comments 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 rights, and no evidence is available that would demonstrate that the rights are 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 rights are present.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.
13. On May 23, 2006, the Department issued a preliminary determination proposing to approve Transfer T-9841 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 23, 2006, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the Department's weekly notice.

Partial Cancellation of a Water Right

14. On April 20, 2006, the applicant submitted an Affidavit for Partial Cancellation of a Water Right to voluntarily cancel 1.24 acres of irrigation use under Certificate 68690 that was appurtenant to tax lot 800 in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 2, Township 1 south, Range 3 west, W.M. in Washington County. This partial cancellation affidavit resolves the issue described in Findings #6 and #7.
15. The following portion of Certificate 68690 appurtenant to tax lot 800 in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 2, Township 1 south, Range 3 west, W.M. in Washington County is not subject to transfer and the applicant wishes to cancel said portion of the certificate:

Certificate: 68690 in the name of EDMUND H. DUYCK (perfected under Permit S-50739)
Use: IRRIGATION of 1.24 ACRES
Priority Date: MAY 17, 1988
Rate: 0.016 CUBIC FOOT PER SECOND (cfs)
Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 2.5 acre feet per acre for each acre irrigated during the irrigation season each year, PROVIDED FURTHER WATER SHALL NOT BE APPROPRIATED DURING THE PERIOD FROM JULY 31 THROUGH SEPTEMBER 15 OF EACH YEAR
Source: DAIRY CREEK, tributary to TUALATIN RIVER

Conclusions of Law


The proposed changes in place of use in application T-9841 appear to be consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000. Furthermore, an affidavit for partial cancellation of Water Right Certificate 68690 was received and the Department concludes that portion of the right has been abandoned in accordance with the provisions of ORS 540.621.

Now, therefore, it is ORDERED:

1. The changes proposed in Transfer Application T-9841 are 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 Certificates 68690 and 68718 and any related decree.
3. A portion of Certificate 68690, as described in Findings #14 and #15 above, shall be cancelled upon issuance of a final order.
4. Certificates 68690 and 68718 will be cancelled. New certificates will be issued describing that portion of the rights not involved in this transfer.
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 former place of use of the transferred water shall no longer receive water as part of the former right.
7. 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.
8. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 26th day of June 2006.



 Phillip C. Ward, Director

Mailing Date JUL 11 2006