

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-9958, Washington County) CHANGE IN PLACE OF USE

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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.

Applicants

David N. and Linda A. Eshraghi
26985 SW Farmington Road
Hillsboro, Oregon 97123-9116

Findings of Fact

Background

1. On June 17, 2005, David N. and Linda A. Eshraghi filed an application to change the place of use under Certificate 80651. The Department assigned the application number T-9958.
2. The portion of the right to be transferred is as follows:

Certificate: 80651 in the name of Hardrock Enterprises (perfected under Permit G-798)

Use: Nursery operations on 0.329 acre

Priority Date: March 26, 1958

Rate: 0.009 cubic foot per second (cfs) not to exceed 0.72 acre-feet per acre per year during the irrigation season of each year

Limit/Duty: If for irrigation of any other crop, ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year during the irrigation season of each year

Source: A well in the Tualatin River Basin

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 Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	2 W	WM	26	SE NW	600 FEET EAST FROM NE CORNER OF JOHNSON DLC 55

Authorized Place of Use:

NURSERY OPERATIONS					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	2 W	WM	26	SE NW	0.329

3. Application T-9958 also proposes to change the place of use of the right to:

NURSERY OPERATIONS					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	2 W	WM	26	SE NW	0.329

4. Notice of the application for transfer was published on July 5, 2005 pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
5. On September 22, 2006, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-9958 to the applicants. 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.
6. On October 29, 2007, the Department issued a Preliminary Determination proposing to approve Transfer T-9958 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on November 6, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

7. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. 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 Application T-9958.
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 change in place of use proposed in application T-9958 is 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-9958 is approved.
2. Water Right Certificate 80651 is cancelled. A new certificate will be issued describing that portion of the right not affected by 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 80651 and any related decree.
4. The former place of use of the transferred right shall no longer receive water under the right.
5. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2009. 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. 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 day of December 2007.


Phillip C. Ward, Director

Mailing Date: DEC 17 2007