

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10441, Yamhill 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

Ralph and Norma Johnson
16705 NE Chehalem Drive
Newberg, Oregon 97132

Findings of Fact

Background

1. On August 7, 2007, Ralph and Norma Johnson filed an application to change the place of use under Certificate 33886. The Department assigned the application number T-10441.
2. The portion of the right to be transferred is as follows:

Certificate: 33886 in the name of Ralph E. Johnson (perfected under Permit S-27573)

Use: Irrigation of 0.6 acre

Priority Date: September 5, 1961

Rate: 0.01 cubic foot per second (cfs)

Limit/Duty: One-eightieth of one cfs per acre, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir constructed under Permit R-2663

Source: Unnamed stream and reservoir constructed under Permit R-2663, tributaries to Chehalem Creek

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 Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
3 S	3 W	WM	1	SW NE	68	200 feet South and 750 feet East from the NW Corner of A. WELCH DLC 68

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	3 W	WM	1	NE SE	43	0.60

3. Application T-10441 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	3 W	WM	1	NE NE	68	0.10
3 S	3 W	WM	1	SW NE	68	0.25
3 S	3 W	WM	1	SE NE	68	0.25

4. Notice of the application for transfer was published on August 14, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On September 24, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10441 to the applicant. The draft Preliminary Determination set forth a deadline of October 26, 2007, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
6. On October 31, 2007, the Department issued a Preliminary Determination proposing to approve Transfer T-10441 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on 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(2)]

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-10441.
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-10441 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-10441 is approved.
2. Water Right Certificate 33886 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 33886 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 change 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 change 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