

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Gov't Lot	DLC	Acres
38 S	5 W	WM	12	NW SW	TRACT 1		2.60

4. Application T-8325 proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Gov't Lot	DLC	Acres
38 S	5 W	WM	11	NE SE	TRACT 2		0.60
38 S	5 W	WM	11	SE SE	TRACT 2		2.00

5. An affidavit was received from Jonathan C. and Jessie E. Spero, owners of the land and the water right appurtenant to it, listed in Finding of Fact 3 and 4. The landowners request a partial diminution of Certificate 49426 from primary irrigation to supplemental irrigation.

OAR 690-330-0040 (2) provides: "A primary right may, at the request of the owner of the water right, be diminished to a supplemental status to allow for a new primary application from a more dependable source of water."

The portion of the water right (Certificate 49426) to be diminished is located as follows:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Gov't Lot	DLC	Acres
38 S	5 W	WM	11	NE SE	TRACT 2		0.60
38 S	5 W	WM	11	SE SE	TRACT 2		2.00

6. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
7. 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.
8. A diversion structure, ditch, pipeline and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
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

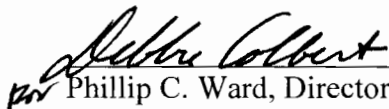
The change in place of use proposed in application T-8325 is consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

The portion of Certificate 49426 listed in Finding of Fact number 5 shall be diminished from primary irrigation to supplemental irrigation.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in application T-8325 is approved.
2. Water right certificate 49426 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 49426 and any related decree.
4. The proposed change shall be completed on or before October 1, 2006.
5. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2007.
6. The former place of use of the transferred water shall no longer receive water as part of these rights.
7. 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.
8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 12th day of August 2005.


Phillip C. Ward, Director

Mailing date: AUG 16 2005