

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

In the Matter of Transfer Application)
T-9961, Yamhill County)
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)
)

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

WADE AND PATRICIA MILLER
13945 NW PHEASANT HILL RD.
MCMINNVILLE, OR 97128

Findings of Fact

Background

1. On June 27, 2005, Wade and Patricia Miller filed an application to change the character of use and place of use under Certificates 48208, 48211 and 48212 to pond maintenance of a reservoir constructed under Permit R-13980. The Department assigned the application number T-9961.
2. An amended application and map was submitted to the Department on March 14, 2006, to clarify the place of use involved in Transfer T-9961.
3. The portion of the first right to be transferred is as follows:
Certificate: 48208 in the name of CALVIN E. VAN DER VEEN (perfected under Permit S-38815)
Use: IRRIGATION of 5.3 ACRES
Priority Date: SEPTEMBER 23, 1975
Rate: 0.07 CUBIC FOOT PER SECOND (cfs)
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year
Source: BAKER CREEK, tributary to NORTH YAMHILL RIVER

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

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

Certificate: 48211 in the name of CALVIN E. VAN DER VEEN (perfected under Permit S-17115)

Use: IRRIGATION of 0.8 ACRE

Priority Date: JUNE 25, 1946

Rate: 0.01 CUBIC FOOT PER SECOND (cfs)

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

Source: BAKER CREEK, tributary to NORTH YAMHILL RIVER

The portion of the third right to be transferred is as follows:

Certificate: 48212 in the name of CALVIN E. VAN DER VEEN (perfected under Permit S-17622)

Use: IRRIGATION of 1.8 ACRES

Priority Date: MARCH 19, 1947

Rate: 0.02 CUBIC FOOT PER SECOND (cfs)

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

Source: BAKER CREEK, tributary to NORTH YAMHILL RIVER

The above described rights all share the same authorized point of diversion located:

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
4 S	5 W	WM	13	SE NW	43	1710 FEET NORTH AND 1340 FEET WEST FROM SE CORNER, DAWSON DLC 43

Authorized Places of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres		
						C#48208	C#48211	C#48212
4 S	5 W	WM	13	NW NW	43	3.3	0.8	1.8
4 S	5 W	WM	14	NE NE	43	2.0	--	--
TOTALS:						5.3	0.8	1.8

- Based upon review of the drainage basin map for the Middle Willamette Basin, it is clear that Baker Creek, described in Finding #3, is actually a tributary of Panther Creek, which then flows into the North Yamhill River.
- Application T-9961 proposes to change the character of use to pond maintenance in a reservoir constructed under Permit R-13980, located:

POND MAINTENANCE					
Twp	Rng	Mer	Sec	DLC	Q-Q
4 S	5 W	WM	13	43	NW NW
4 S	5 W	WM	14	43	NE NE

6. Notice of the application for transfer was published on July 19, 2005, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. A Draft Preliminary Determination was sent to the applicants on April 2, 2007. Comments from Richard Verboort, CWRE were received and processed. Lien information was provided by the Wade and Patricia Miller.

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

8. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are 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 Application T-9961.
10. The Watermaster submitted information to support that the proposed full face value of the water rights may be transferred.
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.

Determination and Proposed Action


The changes in character of use and place of use proposed in application T-9961 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If application T-9961 is approved, the final order will include the following:

1. *The changes in character of use and place of use proposed in application T-9961 are approved.*
2. *Water right certificates 48208, 48211 and 48212 are cancelled. New certificates will be issued describing the portions of the rights 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 Certificates 48208, 48211 and 48212 and any related decree.*
4. *Diversion of water for pond maintenance shall not exceed a total annual volume of 19.75 acre-feet during the irrigation season, April 1 through September 30.*
5. *The abandoned former places of use of the transferred water shall no longer receive water as part of these rights.*

6. *When required by the Department, the water user shall install, maintain and operate 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 measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*
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. Currently the reservoir storage permit requires an approved measuring device that shall be maintained in good working order.*
8. *The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. 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.*
9. *When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 13th day of July 2007.


Phillip C. Ward, Director

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer Street NE, Suite A, Salem, OR 97301-1266.

This Preliminary Determination was prepared by Joel.T.Clark. If you have questions about the information in this document, you may reach me at (541) 384-4207 or Joel.T.Clark@wrdd.state.or.us.