

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

In the Matter of Transfer Application) PRELIMINARY DETERMINATION
T-9958, Washington County) PROPOSING APPROVAL OF A
) 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 acres

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

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

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.

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.

Transfer Review Criteria (OAR 690-380-4010)

6. 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.
7. 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.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

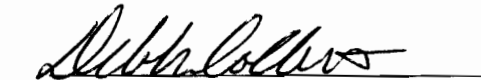
The change in place of use proposed in application T-9958 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If transfer application T-9958 is approved, the final order will include the following:

- 1. The change in place of use proposed in application T-9958 is approved.*
- 2. Upon the issuance of a final order approving Transfer Application T-9958, Water Right Certificate 80651 will be 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 29 day of October 2007.


for Phillip C. Ward, Director

This Preliminary Determination was prepared by Kelly Starnes. If you have questions about the information in this document, you may reach me at 503-986-0886 or Patrick.K.Starnes@ wrd.state.or.us.

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