

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	3 W	WM	25	NW NW	0.26

4. The applicant has provided information indicating that water has been diverted from:

Twp	Rng	Mer	Sec	Q-Q	Additional Information
34 S	2 W	WM	24	NE SW	BYBEE DITCH

5. The decree map shows two “Bibee” ditches. The upper ditch is on the north side of Evans Creek and the lower ditch is on the south side of Evans Creek. The lands described in Finding of Fact #3 are served by the lower ditch which is described in Finding of Fact #4.
6. Transfer Application T-9971 proposes to move the authorized point of diversion approximately 0.5 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
34 S	3 W	WM	25	NW NW	638 FEET SOUTH AND 390 FEET EAST FROM NW CORNER OF SECTION 25

7. Transfer Application T-9971 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	3 W	WM	25	NW NW	0.26

8. Notice of the application for transfer was published on July 26, 2005, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice. However, the Oregon Department of Fish and Wildlife did request inclusion of a condition requiring installation of proper fish screens.
9. Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

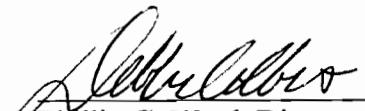
Determination and Proposed Action

The proposed changes in place of use, and point of diversion in Transfer Application T-9971 appear to be consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000, and will be approved provided that protests are not filed pursuant to OAR 690-380-4030.

If approved, the change and subsequent use of water shall be subject to the following conditions:

1. *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 79742 and any related decree.*
2. *Certificate 79742 is cancelled. A new certificate will be issued describing that portion of the right not involved in this transfer.*
3. *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.*
4. *The former place of use of the transferred water shall no longer receive water as part of this right.*
5. *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.*
6. *The water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction, and shall be installed under the supervision of the Department of Fish and Wildlife.*
7. *When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 1ST day of May 2007.


Phillip C. Ward, Director

This Preliminary Determination was prepared by Bob Rice. If you have questions about the information in this document, you may reach me at 503-986-0885 or Robert.D.Rice@wrđ.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.