

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

In the Matter of Transfer Application) **FINAL ORDER APPROVING CHANGE**
T-9714, Baker County for a Change in) **IN PLACE OF USE**
Place of use.)

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

Peter Schoeningh Jr.
P.O. Box 2677
Florence, OR 97439

Agent

Michael Schoeningh
49850 Miller Road
North Powder, OR 97867

Findings of Fact

1. Peter Schoeningh Jr. filed an application to transfer the place of use under Certificate 76952. The Department assigned the application number T-9714.
2. The portion of the right to be transferred is as follows

Certificate: 76952 in the name of Peter W. Schoeningh Jr.
Use: Irrigation and Stock Use
Priority Date: 1874 for 7.0 acres, 1881 for 7.0 acres
Quantity: 0.35 cfs from March 1st to July 1st and 0.18 cfs from July 1st to October 1st of each year; the total quantity diverted during each season not to exceed 35.0 acre-feet
Acres: 14.0 Acres
Source: North Powder River, tributary to Powder River

Authorized Points of Diversion:

Township		Range		Meridian	Sec	¼ ¼		Lot	Survey Coordinates
7	S	38	E	W.M.	5	NW	NE	100	Hutchinson/Gardner Mill Race - 2760' S and 2380' W from the E¼ corner, Sec 32

This is a final order in other than 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.

Township		Range		Meridian	Sec	¼ ¼	Lot	Survey Coordinates
6	S	38	E	W.M.	32	SW SE	100	Powers Company Ditch - 585' N and 2154' W from the SE corner, Sec 32

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres	Priority
6	S	38	E	W.M.	28	SE SE	100	7.0	1881
6	S	38	E	W.M.	33	SE NE	100	7.0	1874

3. Application T-9714 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Lot	Acres	Priority
6	S	38	E	W.M.	28	SE SE	100	7.0	1874
6	S	38	E	W.M.	33	SE NE	100	7.0	1881

4. 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.
5. 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.
6. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
7. The proposed change would not result in enlargement of the right.
8. The proposed change would not result in injury to other water rights.

Conclusions of Law

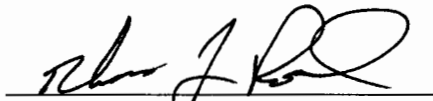
The proposed changes in place of use proposed in application T-9714 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in place of use proposed in application T-9714 are approved.
2. Water right certificate 76952 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 76952 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. 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.
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 21st day of January , 2005.


Phillip C. Ward
Director

Mailing date: JAN 25 2005