

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10016, Wasco County) CHANGE IN 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

WILLIAM R. MCALLISTER
80445 ROSS ROAD
WAMIC, OR 97063

Findings of Fact

1. On October 13, 2005, William McAllister filed a transfer application to change the place of use under Certificate 76223. The Department assigned the application number T-10016.
2. On January 11, 2007 Larry Toll, the applicant's agent, notified the Department of a scrivener's error in the listing of the source under Certificate 76223 in the Preliminary Determination. The source is correctly listed in this order.
3. The portion of the right to be transferred is as follows:
Certificate: 76223 in the name of BADGER IMPROVEMENT DISTRICT (perfected under Permit S-27390)
Use: PRIMARY IRRIGATION OF 2.7 ACRES
Priority Date: MARCH 22, 1961
Rate: 0.03 CUBIC FOOT PER SECOND (cfs)
Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 3.0 acre feet per acre per year
Source: BADGER CREEK AND A RESERVOIR (constructed under Permit R-773), tributary to WHITE RIVER

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a 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.

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 S	11 E	WM	29	NE SW	BADGER CREEK - 1290 FEET SOUTH AND 550 FEET WEST FROM THE CENTER 1/4 CORNER OF SECTION 29

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	13 E	WM	7	NE SE	2.7

4. Application T-10016 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	13 E	WM	8	SE NW	2.7

5. Notice of the application for transfer was published on October 25, 2005, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
6. On January 5, 2007, the Department issued a preliminary determination proposing to approve Transfer T-10016 and mailed a copy to the applicants. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on January 9, 2007 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. Transfer Application T-10016 is being processed concurrently with transfer applications T-8080, T-9990 and T-10228 which also affect Certificate 76223. Upon issuance of the final orders for these transfers, Certificate 76223 will be cancelled and a new certificate will be issued describing the portion of the right not affected by the transfers.
8. 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.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
10. The Department requires a suitable device for measuring and recording the quantity of water diverted under the right. Currently the Badger Improvement District has a headgate and Parshall flume at the point of diversion that satisfies this requirement.
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.


Conclusions of Law

The change in place of use proposed in Transfer Application T-10016 is consistent with the requirements of ORS 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-10016 are approved.
2. 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 76223 and any related decree.
3. Certificate 76223 is cancelled. A new certificate will be issued describing the portion of the right not affected by T-8080, T-9990, T-10016 and T-10228.
4. 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.
5. The former place of use of the transferred water shall no longer receive water as part of this right.
6. When satisfactory proof of the completed change is received, a new certificate confirming the portion of the right transferred will be issued.

Dated at Salem, Oregon this 12th day of February 2007.


Phillip C. Ward, Director *PCW*

FEB 15 2007

Mailing date: _____