



**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
1	N	39	E	W.M.	11	NW	SW	25.0
1	N	39	E	W.M.	11	SW	SW	10.0
1	N	39	E	W.M.	14	NW	NW	15.0
1	N	39	E	W.M.	15	NE	NE	10.0

4. Certificate 3381 does not designate the location of the point of diversion, however, Department review indicates the authorized point of diversion is located as follows:

Township		Range		Meridian	Sec	¼ ¼	
1	N	39	E	W.M.	15	SE	NE

5. Application T-9863 proposes to move the authorized point of diversion approximately 1450 feet downstream in the source to:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
1	N	39	E	W.M.	15	NE	NE	267 feet South & 653 feet West from the NE Corner of Section 15

6. Application T-9863 proposes to change the Place of Use to:

Township		Range		Meridian	Sec	¼ ¼		Acres
1	N	39	E	W.M.	10	NE	SE	5.8
1	N	39	E	W.M.	10	SE	SE	7.6
1	N	39	E	W.M.	11	NW	SW	19.0
1	N	39	E	W.M.	11	SW	SW	9.7
1	N	39	E	W.M.	14	NW	NW	7.4
1	N	39	E	W.M.	15	NE	NE	10.5

7. 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.
8. Notice of the transfer application and preliminary determination was published pursuant to ORS 540.520 and OAR 690-380-4020(1). No protests were filed in response to the Department's weekly notice or to the newspaper notice.
9. The Oregon Department of Fish and Wildlife (ODFW) reported that the proposed diversion is equipped with an appropriate fish-screening device. Any new structure installed at the diversion point must be ODFW approved.
10. The City of Elgin is a municipality as defined in ORS 540.510.

11. Findings of Fact #8, #9 and #10 in the Preliminary Determination for T-9863 issued on December 23, 2005, have been deleted from this order because they pertain to the rules for a Change in Point of Diversion to Reflect Historical Use (OAR 690-380-2120) and, therefore, do not apply to this transfer request.
12. The “Determination and Proposed Action” section of the Preliminary Determination for T-9863 issued on December 23, 2005, erroneously identified this transfer request as being application T-9795. This statement is modified herein to correctly identify this request for transfer as being application T-9863.
13. 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.
14. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
15. The proposed change would not result in enlargement of the right.
16. The proposed change would not result in injury to other water rights.

#### **Conclusions of Law**

The changes in point of diversion and place of use in application T-9863 are 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 point of diversion and place of use proposed in application T-9863 are approved.
2. Water right certificate 3381 is cancelled.
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 3381.
4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2007**. 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 quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.
6. The former place of use of the transferred water shall no longer receive water as part of this right.

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.
8. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 27<sup>th</sup> day of April, 2006.

  
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Phillip C. Ward, Director

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Mailing date: MAY 04 2006