

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

In the Matter of Transfer Applications)
T-9264 and T-8911, Douglas County)
)
) FINAL ORDER APPROVING A
) CHANGE IN POINT OF DIVERSION,
) PLACE OF USE, AND CHARACTER
) OF USE

Authority

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

TRI CITY WATER DISTRICT
215 NORTH OLD PACIFIC HWY
MYRTLE CREEK OR 97457

Findings of Fact

1. On October 4, 2001, and September 30, 2002, Tri City Water District filed transfer applications to change the point of diversion, place of use, and character of use under Certificate 76021. The Department assigned the application number T-8911 and T-9264 respectively.
2. On January 31, 2006, the existing point of diversion survey coordinates listed in Transfer Application T-9264 were amended to match the application map of T-9264.
3. On June 28, 2006, and July 10, 2006, amendments to the proposed place of use listing and associated map were received for both Transfer Applications T-8911 and T-9264.
4. The portion of the right to be transferred under T-9264 is as follows:
Certificate: 76021 in the name of A. L. MATTHEWS (perfected under Permit S-24600)
Use: IRRIGATION of 24.83 ACRES
Priority Date: SEPTEMBER 19, 1956
Rate: 0.31 CUBIC FOOT PER SECOND (CFS)
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre feet per acre per year

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.

Source: SOUTH UMPQUA RIVER, tributary to UMPQUA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
30 S	5 W*	WM	12	NE SE

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	5 W	WM	7	SW NW	9.40
30 S	5 W	WM	7	SE NW	14.53
30 S	5 W	WM	7	NE SW	0.50
30 S	5 W	WM	7	NW SW	0.40

- *There is an apparent scrivener's error in the identification of the Range for the authorized point of diversion on Certificate 76021. Certificate 76021 should list the location of the authorized point of diversion as NESE of Section 12, Township 30 South, Range 6 West, WM.
- The Department received information that better describes the location of the authorized point of diversion for Certificate 76021 as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
30 S	6 W	WM	12	NE SE	675 FEET SOUTH AND 225 FEET WEST FROM THE E1/4 CORNER OF SECTION 12

- Transfer Application T-9264 proposes to move the authorized point of diversion approximately 2.2 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
30 S	5 W	WM	5	SW NW	2030 FEET SOUTH AND 500 FEET EAST FROM THE NW CORNER OF SECTION 5

- Application T-9264 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q
29 S	5 W	WM	28	SE NE
29 S	5 W	WM	28	NE SW
29 S	5 W	WM	28	NW SW
29 S	5 W	WM	28	SE SW
29 S	5 W	WM	28	NE SE
29 S	5 W	WM	28	NW SE
29 S	5 W	WM	28	SW SE
29 S	5 W	WM	28	SE SE
29 S	5 W	WM	32	NE SE
29 S	5 W	WM	32	SW SE
29 S	5 W	WM	32	SE SE
29 S	5 W	WM	33	NE NE
29 S	5 W	WM	33	NW NE
29 S	5 W	WM	33	SW NE
29 S	5 W	WM	33	SE NE

Twp	Rng	Mer	Sec	Q-Q
29 S	5 W	WM	33	NE NW
29 S	5 W	WM	33	NW NW
29 S	5 W	WM	33	SW NW
29 S	5 W	WM	33	SE NW
29 S	5 W	WM	33	NE SW
29 S	5 W	WM	33	NW SW
29 S	5 W	WM	33	SW SW
29 S	5 W	WM	33	SE SW
29 S	5 W	WM	33	NE SE
29 S	5 W	WM	33	NW SE
29 S	5 W	WM	33	SW SE
29 S	5 W	WM	33	SE SE
29 S	5 W	WM	34	NW NW
29 S	5 W	WM	34	SW NW
29 S	5 W	WM	34	NW SW
30 S	5 W	WM	4	NW NE
30 S	5 W	WM	4	NE NW
30 S	5 W	WM	4	NW NW
30 S	5 W	WM	4	SW NW
30 S	5 W	WM	4	NW SW
30 S	5 W	WM	5	NE NE
30 S	5 W	WM	5	NW NE
30 S	5 W	WM	5	SW NE
30 S	5 W	WM	5	SE NE
30 S	5 W	WM	5	NE NW
30 S	5 W	WM	5	SW NW
30 S	5 W	WM	5	SE NW
30 S	5 W	WM	5	NE SW
30 S	5 W	WM	5	NW SW
30 S	5 W	WM	5	SW SW
30 S	5 W	WM	5	SE SW
30 S	5 W	WM	5	NE SE
30 S	5 W	WM	5	NW SE
30 S	5 W	WM	5	SW SE
30 S	5 W	WM	6	SE NE
30 S	5 W	WM	6	NE SE
30 S	5 W	WM	6	SW SE
30 S	5 W	WM	6	SE SE
30 S	5 W	WM	7	NE NE
30 S	5 W	WM	7	NW NE
30 S	5 W	WM	7	SW NE
30 S	5 W	WM	7	SE NE
30 S	5 W	WM	7	SW NW
30 S	5 W	WM	7	SE NW
30 S	5 W	WM	7	NE SW
30 S	5 W	WM	7	NW SW
30 S	5 W	WM	7	SW SW
30 S	5 W	WM	7	SE SW
30 S	5 W	WM	7	NE SE
30 S	5 W	WM	7	NW SE
30 S	5 W	WM	7	SW SE

Twp	Rng	Mer	Sec	Q-Q
30 S	5 W	WM	7	SE SE
30 S	5 W	WM	8	NW NW
30 S	5 W	WM	8	SW NW
30 S	5 W	WM	8	NE SW
30 S	5 W	WM	8	NW SW
30 S	5 W	WM	8	SW SW
30 S	5 W	WM	8	SE SW

9. The portion of the right to be transferred under T-8911 is as follows:

Certificate: 76021 in the name of A. L. MATTHEWS (perfected under Permit S-24600)

Use: IRRIGATION of 2.57 ACRES

Priority Date: SEPTEMBER 19, 1956

Rate: 0.03 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre feet per acre per year

Source: SOUTH UMPQUA RIVER, tributary to UMPQUA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
30 S	5 W*	WM	12	NE SE

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	5 W	WM	7	SE NW	2.47
30 S	5 W	WM	7	NE SW	0.10

10. *There is an apparent scrivener's error in the identification of the Range for the authorized point of diversion on Certificate 76021. Certificate 76021 should list the location of the authorized point of diversion as NESE of Section 12, Township 30 South, Range 6 West, WM.
11. The Department received information that better describes the location of the authorized point of diversion for Certificate 76021 as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
30 S	6 W	WM	12	NE SE	675 FEET SOUTH AND 225 FEET WEST FROM THE E1/4 CORNER OF SECTION 12

12. Transfer Application T-8911 proposes to move the authorized point of diversion approximately 2.2 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
30 S	5 W	WM	5	SW NW	2030 FEET SOUTH AND 500 FEET EAST FROM THE NW CORNER OF SECTION 5

13. Application T-8911 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q
29 S	5 W	WM	28	SE NE

Twp	Rng	Mer	Sec	Q-Q
29 S	5 W	WM	28	NE SW
29 S	5 W	WM	28	NW SW
29 S	5 W	WM	28	SE SW
29 S	5 W	WM	28	NE SE
29 S	5 W	WM	28	NW SE
29 S	5 W	WM	28	SW SE
29 S	5 W	WM	28	SE SE
29 S	5 W	WM	32	NE SE
29 S	5 W	WM	32	SW SE
29 S	5 W	WM	32	SE SE
29 S	5 W	WM	33	NE NE
29 S	5 W	WM	33	NW NE
29 S	5 W	WM	33	SW NE
29 S	5 W	WM	33	SE NE
29 S	5 W	WM	33	NE NW
29 S	5 W	WM	33	NW NW
29 S	5 W	WM	33	SW NW
29 S	5 W	WM	33	SE NW
29 S	5 W	WM	33	NE SW
29 S	5 W	WM	33	NW SW
29 S	5 W	WM	33	SW SW
29 S	5 W	WM	33	SE SW
29 S	5 W	WM	33	NE SE
29 S	5 W	WM	33	NW SE
29 S	5 W	WM	33	SW SE
29 S	5 W	WM	33	SE SE
29 S	5 W	WM	34	NW NW
29 S	5 W	WM	34	SW NW
29 S	5 W	WM	34	NW SW
30 S	5 W	WM	4	NW NE
30 S	5 W	WM	4	NE NW
30 S	5 W	WM	4	NW NW
30 S	5 W	WM	4	SW NW
30 S	5 W	WM	4	NW SW
30 S	5 W	WM	5	NE NE
30 S	5 W	WM	5	NW NE
30 S	5 W	WM	5	SW NE
30 S	5 W	WM	5	SE NE
30 S	5 W	WM	5	NE NW
30 S	5 W	WM	5	SW NW
30 S	5 W	WM	5	SE NW
30 S	5 W	WM	5	NE SW
30 S	5 W	WM	5	NW SW
30 S	5 W	WM	5	SW SW
30 S	5 W	WM	5	SE SW
30 S	5 W	WM	5	NE SE
30 S	5 W	WM	5	NW SE
30 S	5 W	WM	5	SW SE
30 S	5 W	WM	6	SE NE
30 S	5 W	WM	6	NE SE
30 S	5 W	WM	6	SW SE

Twp	Rng	Mer	Sec	Q-Q
30 S	5 W	WM	6	SE SE
30 S	5 W	WM	7	NE NE
30 S	5 W	WM	7	NW NE
30 S	5 W	WM	7	SW NE
30 S	5 W	WM	7	SE NE
30 S	5 W	WM	7	SW NW
30 S	5 W	WM	7	SE NW
30 S	5 W	WM	7	NE SW
30 S	5 W	WM	7	NW SW
30 S	5 W	WM	7	SW SW
30 S	5 W	WM	7	SE SW
30 S	5 W	WM	7	NE SE
30 S	5 W	WM	7	NW SE
30 S	5 W	WM	7	SW SE
30 S	5 W	WM	7	SE SE
30 S	5 W	WM	8	NW NW
30 S	5 W	WM	8	SW NW
30 S	5 W	WM	8	NE SW
30 S	5 W	WM	8	NW SW
30 S	5 W	WM	8	SW SW
30 S	5 W	WM	8	SE SW

14. Transfer Applications T-9264 and T-8911 propose to change the character of use to Quasi-Municipal.
15. On September 7, 2006, the Department issued a Preliminary Determination proposing approval of Transfer Application T-9264 and T-8911 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination was published on the Department's weekly notice on September 12, 2006 and in the News Review of Douglas County on September 17 and 24, and on October 1, 2006 pursuant to ORS 540.520 and OAR 690-380-4020.
16. 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.
17. A pump and pipeline sufficient to use the full amount of water allowed under the existing right are present.
18. Provided that the quantity of water allowed for irrigation purposes under Certificate 76021 (being 0.31 cfs to be modified under T-9264 and 0.03 cfs to be modified under T-8911, both further limited to 2.5 acre feet per acre per year) is not used for Quasi-Municipal purposes outside the irrigation season, the proposed change would not result in enlargement of the right.
19. The proposed changes would not result in injury to other water rights.

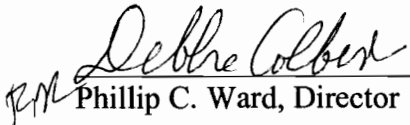
Conclusions of Law

The proposed changes in point of diversion, place of use, and character of use, proposed in T-9264 and T-8911 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 proposed in Transfer Applications T-9264 and T-8911 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 76021 and any related decree.
3. Certificate 76021 is cancelled.
4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**. 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. Diversion of water for Quasi-Municipal use under this right shall be limited to the irrigation season for Certificate 76021 and a total annual duty of 68.5 acre-feet.
6. When required by the Department, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
7. 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.
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 9th day of November 2006.


Phillip C. Ward, Director

Mailing date: NOV 15 2006