

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

In the Matter of Transfer Application)
T-10023, Polk County)
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ORDER WITHDRAWING
PRELIMINARY DETERMINATION
REJECTING A CHANGE IN POINT OF
DIVERSION AND PLACE OF USE
AND WITHDRAWING REQUEST TO
DEQ FOR CONSENT TO INJURY

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
SANDRA L. MORITZ
8775 RED PRAIRIE RD
SHERIDAN, OR 97378

Findings of Fact

Background

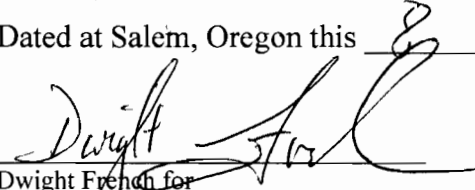
1. On November 3, 2005, Sandra L. Moritz filed a transfer application to change the place of use and point of diversion under Certificates 14476, 15128, and 21277. The Department assigned the application number T-10023.
2. An instream water right, Certificate 72985 for 1.5 cfs, exists for the reach of the river in which the authorized point of diversion is proposed to be moved upstream
3. On March 20, 2006, the Department issued a Preliminary Determination proposing to reject Transfer Application T-10023. Based on information available to the Department at that time, the Department concluded the proposed changes in points of diversion would result in injury to instream water right 72985.
4. On March 20, 2006, the Department requested a recommendation from DEQ on whether the Department should consent to injury to the instream water right if Transfer Application T-10023 were to be approved.
5. OAR 690-380-0100 defines injury as another existing water right not receiving previously available water to which it is legally entitled as a result of a proposed transfer.
6. Current information and analysis along with historical streamflow measurements show that flows within the reach exceed the levels allocated (1.5 cfs) under the instream water right

Certificate 72985. Thus, the instream water right would not be injured as a result of the proposed change in point of diversion.

Now, therefore, it is ORDERED:

The Preliminary Determination issued on March 20, 2006, is withdrawn and is of no force or effect. The request for the Consent to Injury recommendation submitted to the Oregon Dept. of Environmental Quality pursuant to ORS 540.530(c) is withdrawn.

Dated at Salem, Oregon this 8 day of February 2011.


Dwight French for
Phillip C. Ward, Director

Mailing date: FEB 10 2011