

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-8623, Lane County	)	PROPOSING APPROVAL OF A
	)	CHANGE FROM A SURFACE WATER
	)	POINT OF DIVERSION TO A GROUND
	)	WATER POINT OF APPROPRIATION

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

Bob Gordon
39045 Hendricks Park Rd.
Springfield, Oregon 97478

Findings of Fact

Background

1. On October 27, 2000, Bob Gordon filed an application to change from a surface water point of diversion to a ground water appropriation under Permit S-52815. The Department assigned the application number T-8623.
2. On December 26, 2007, Certificate 83680 was issued reflecting the perfection of Permit S-52815.
3. The right to be transferred is as follows:

Certificate:	83680 in the name of Bob Gordon (perfected under Permit S-52815)
Use:	IRRIGATION of 11.5 ACRES
Priority Date:	NOVEMBER 29, 1991
Rate:	0.14 CUBIC FOOT PER SECOND FROM LIVE FLOW AND NOT MORE THAN 6.0 ACRE FEET PER YEAR STORED WATER ONLY or its equivalent in case of rotation, measured at the point of diversion
Limit/Duty:	The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.
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of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: Live flow may be appropriated from March 1 through June 30, and October 1 through October 31; stored water may be appropriated from March 1 through October 31 or as may be further limited by the Bureau of Reclamation water service contract.

Source: UNNAMED SLOUGH, tributary to the MCKENZIE RIVER AND STORED WATER FROM THE WILLAMETTE BASIN PROJECT RESERVOIRS

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	1 W	WM	28	SE SW	1240 FEET NORTH AND 345 FEET WEST FROM S ¼ CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	1 W	WM	28	SE SW	11.5

- Transfer Application T-8623 proposes to change the authorized point of diversion to a point of appropriation approximately 165 feet south as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	1 W	WM	28	SE SW	1075 FEET NORTH AND 345 FEET WEST FROM S 1/4 CORNER OF SECTION 28

- Notice of the application for transfer was published on November 7, 2000, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On May 18, 2010, the Department mailed the draft Preliminary Determination proposing to deny Transfer Application T-8623 to the applicant. The denial was based on the Hunt (1999) analytical model results showing the proposed POD would not affect the authorized surface water source similarly to the authorize POD as required by OAR 690-38-2130 (S)(c) and (11)(b). The draft Preliminary Determination cover letter set forth a deadline of June 17, 2010, for the applicant to respond. The applicant requested that we discuss alternatives and provided the necessary information to demonstrate authorization to pursue the transfer.
- On July 29, 2010, an amended Groundwater review was received. Based on new evidence provided, the proposed POD will affect the authorized surface water source similarly to the authorized POD as required by OAR 690-38-2130(2)(c) and (11)(b). Impacts to the unnamed slough from the pumping of LANE 70276 were estimated using the Hunt (1999) analytical model. Slough samples collected by District 2 Watermaster, Michael Mattick, in June 2010 indicated the slough is mostly composed of sand and gravel. Accordingly, the streambed hydraulic conductivity value was raised from 1 ft/day (a value typical of silty sand) to 10

ft/day (a value corresponding to coarse sand and gravel). Results indicated that stream depletion after 10 days would be about 60 percent of the rate of appropriation at the well.

8. On July 30, 2010, the Department mailed a revised draft Preliminary Determination proposing to approve Transfer Application T-8623 to the applicant. The applicant reviewed the revised draft Preliminary Determination and requested the Department proceed with issuance of the Preliminary Determination.

Transfer Review Criteria [OAR 690-380-4010(2)]

9. Water has been used within the five-year period prior to submittal of the transfer application according to the terms and conditions of the right. Certificate 83680 was issued on December 26, 2007.
10. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-8623.
11. The proposed well meets the requirements of ORS 540.531. Pumping of the well will cause depletion of the surface water source at a rate of at least 50 percent of the rate of appropriation within 10 days of continuous pumping, in accordance with OAR 690-380-2130(2)(c) and (11)(b).
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change from a surface water point of diversion to a ground water appropriation proposed in Transfer Application T-8623 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-2130 and 690-380-5000. If no protests are filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-8623 is approved, the final order will include the following:

1. *The change from a surface water point of diversion to a ground water point of appropriation proposed in application T-8623 is 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 83680 and any related decree.*
3. *Water right certificate 83680 is cancelled.*
4. *The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of diversion.*

5. *The Director may require the water user to install a totalizing flow meter or other suitable measuring device at the point of appropriation. If the Director notifies the water user to install totalizing flow meter or other measuring device, the water user shall install such device specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meter or measuring device in good working order and shall allow the Watermaster access to the meter or measuring device.*
6. *The new point of appropriation shall retain the original date of priority and shall be subject to all applicable conditions and restrictions that existed at the original point of diversion.*
7. *The well from which water is taken under the right shall be constructed so that the use of the well will affect the surface water source similarly to the use of the original authorized point of diversion.*
8. *The use of water under this right shall be subject to regulation consistent with other water rights from the surface water source and to all other applicable conditions and restrictions that existed at the original point of diversion.*
9. *If within five years after approval of the transfer, the Department finds that the transfer results in substantial or undue interference with an existing ground water right due to use of the well that would not have occurred in the absence of the transfer, the new point of appropriation shall be subordinate to the existing right injured by the transfer.*
10. *The original point of diversion of surface water shall not be retained as an additional or supplemental point of diversion under the transferred right. However, if within five years after approval of the transfer, the Department receives a transfer application to return to the last authorized surface water point of diversion, the application shall be approved.*
11. *The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.*
12. *When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 6 day of August 2010.


Phillip C. Ward, Director

This Preliminary Determination was prepared by Carrie Jones. If you have questions about the information in this document, you may reach me at 541-523-8224 x 36 or Carrie.R.Jones@wrд.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.