

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

In the Matter of Transfer Application)
T-10981, Lane County)
)
) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF A
) CHANGE IN POINT OF DIVERSION
) AND PLACE 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

SPRINGFIELD COUNTRY CLUB
90333 SUNDERMAN RD
SPRINGFIELD, OR 97478

Agent

GREG OR MALIA KUPILLAS
PACIFIC HYDRO-GEOLOGY INC.
18487 S VALLEY VISTA RD
MULINO, OR 97042

Findings of Fact

Background

1. On November 23, 2009, SPRINGFIELD COUNTRY CLUB filed an application to change the point of diversion and to change the place of use under Certificates 29982 and 82065. The Department assigned the application number T-10981.
2. The first right to be transferred is as follows:

Certificate: 29982 in the name of SPRINGFIELD COUNTRY CLUB INC. (perfected under Permit S-25691)
Use: IRRIGATION of 29.7 ACRES
Priority Date: JULY 30, 1958
Rate: 0.37 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, 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.

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.

Source: MOHAWK RIVER, tributary to the MCKENZIE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	GLot	Q-Q
17 S	2 W	WM	3	1	SE NW

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
17 S	2 W	WM	3	NW NE			0.6
17 S	2 W	WM	3	NE NW		63	1.1
17 S	2 W	WM	3	NE NW	8		16.9
17 S	2 W	WM	3	SE NW		63	4.0
17 S	2 W	WM	3	SE NW	1		4.4
17 S	2 W	WM	3	NE SW		63	0.1
17 S	2 W	WM	3	NE SW	2		2.6
Total							29.7

- Certificate 29982 does not describe the exact location of the point of diversion, however information is available from the application map indicating that the point of diversion is located 495 Feet North and 175 Feet West from the NNW Corner of the B. Ramsey DLC 71, in Section 3, Township 17 South, Range 2 West, Willamette Meridian.
- Transfer Application T-10981 proposes to move the authorized point of diversion approximately 1883 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
17 S	2 W	WM	3	NE SW	71	60 FEET SOUTH AND 150 FEET WEST FROM THE SOUTHEASTERLY INTERIOR CORNER OF DLC 71

- Transfer Application T-10981 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	2 W	WM	3	NW NE	1.1
17 S	2 W	WM	3	SW NE	1.1
17 S	2 W	WM	3	NE NW	8.4
17 S	2 W	WM	3	SE NW	4.5
17 S	2 W	WM	3	NE SW	2.6
17 S	2 W	WM	3	SE SW	3.6
17 S	2 W	WM	3	NW SE	6.1
17 S	2 W	WM	3	SW SE	2.3
Total					29.7

- The second right to be transferred is as follows:

Certificate: 82065 in the name of SPRINGFIELD COUNTRY CLUB INC. (perfected under Permit S-47707)
Use: IRRIGATION of 36.4 ACRES
Priority Date: SEPTEMBER 1, 1983

Rate: 0.455 CUBIC FOOT PER SECOND

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 of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: MOHAWK RIVER, tributary to the MCKENZIE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
17 S	2 W	WM	3	NE SW	71	60 FEET SOUTH AND 150 FEET WEST FROM THE SOUTHEASTERLY INTERIOR CORNER OF DLC 71

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
17 S	2 W	WM	3	NE SW	71	6.7
17 S	2 W	WM	3	SE SW	71	11.5
17 S	2 W	WM	3	NW SE	71	13.3
17 S	2 W	WM	3	SW SE	71	4.9
Total						36.4

7. Transfer Application T-10981 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	
17 S	2 W	WM	3	NW NE	0.9	
17 S	2 W	WM	3	SW NE	0.6	
17 S	2 W	WM	3	NE NW	7.7	
17 S	2 W	WM	3	SE NW	4.5	
17 S	2 W	WM	3	NE SW	4.3	
17 S	2 W	WM	3	SE SW	6.7	
17 S	2 W	WM	3	NW SE	9.2	
17 S	2 W	WM	3	SW SE	2.5	
Total						36.4

8. Notice of the application for transfer was published on December 1, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. On November 17, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10981 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 17, 2010 for the applicant to respond. The applicant provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
10. On December 16, 2010, the applicant requested the draft Preliminary Determination be modified to change the instantaneous rate of diversion but not the volume limitation.

11. On January 7, 2011, the Department notified the applicant that it would not be possible to change the rate of diversion.
12. On January 11, 2011, the applicant requested the Department proceed forward with issuance of the Preliminary Determination.
13. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

14. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
15. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-10981.
16. The proposed changes would not result in enlargement of the rights.
17. The proposed changes would not result in injury to other water rights.

Determination and Proposed Action

The change in point of diversion and change in place of use proposed in Transfer Application T-10981 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-10981 is approved, the final order will include the following:

1. *The change in point of diversion and change in place of use proposed in Transfer Application T-10981 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 Certificates 29982 and 82065 and any related decree.*
3. *Water right certificates 29982 and 82065 are cancelled.*
4. *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.*

5. *Water use measurement conditions:*

a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion.

b. The water user shall maintain the meter or measuring devices in good working order.

c. The water user shall allow the Watermaster access to the meter or measuring devices; provided however, where the meter or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

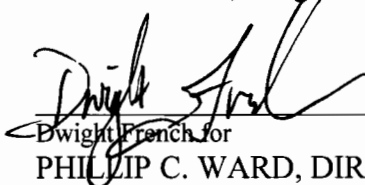
6. *Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*

7. *The former place of use of the transferred rights shall no longer receive water under the rights.*

8. *The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. 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 changes and full beneficial use of the water.*

9. *When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 13 day of January, 2011.


Dwight French for
PHILIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by Teri Hranac. If you have questions about the information in this document, you may reach me at 503-986-0881 or teri.k.hranac@wrdd.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.