



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

March 31, 2016

VIA E-MAIL

LOON LAKE LODGE & RESORT, LLC.
JEROME FINK, MANAGER
16458 BOLSA CHICA #565
HUNTINGTON BEACH, CA 92649

SUBJECT: Water Right Transfer Application T-119365

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11965. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Roseburg News Review newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0890 or Sarah.A.Henderson@wrdd.state.or.us if I may be of assistance.

Sincerely,

Sarah Henderson
Transfer Specialist
Transfer and Conservation Section

cc: T-11965
Dave S. Williams, District 15 Watermaster (via e-mail)
Martha O. Pagel, Agent for the applicant (via e-mail)
John Rehm, CWRE #69277 (via e-mail)

encs

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11965, Douglas County	)	PROPOSING APPROVAL OF AN
	)	ADDITIONAL POINT OF DIVERSION,
	)	PLACE OF USE, AND CHARACTER
	)	OF USE

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

LOON LAKE LODGE AND RESORT, LLC.
JEROME FINK, MANAGER
16458 BOLSA CHICA #565
HUNTINGTON BEACH, CA 92649

Findings of Fact

1. On January 14, 2015, JEROME FINK, MANAGER; LOON LAKE LODGE AND RESORT, LLC filed an application for an additional point of diversion, a change in place of use, and a change in the character of use under Certificate 43038. The Department assigned the application number T-11965.
2. Notice of the application for transfer was published on January 20, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 2, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11965 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 1, 2016, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
4. The portion of the right to be transferred is as follows:

Certificate:	43038 in the name of LOON LAKE RESORT C/O LLOYD T. KEELAND (perfected under Permit S-33811)
Use:	DOMESTIC USE IN A RESORT
Priority Date:	DECEMBER 16, 1968

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.
--

Rate: 0.04 CUBIC FOOT PER SECOND
Source: A SPRING, tributary to LOON LAKE

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	10 W	WM	1	SW SE	615 FEET NORTH AND 310 FEET EAST FROM THE S1/4 CORNER OF SECTION 1

Authorized Place of Use:

DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	GLot
23 S	10 W	WM	12	NW NE	
23 S	10 W	WM	12	SW NE	6

5. Transfer Application T-11965 proposes an additional point of diversion approximately three-quarters of a mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
23 S	10 W	WM	12	SW NW	2	1580 FEET SOUTH AND 430 FEET EAST FROM THE NW CORNER OF SECTION 12

6. Transfer Application T-11965 also proposes to change the place of use of the right to:

COMMERCIAL					
Twp	Rng	Mer	Sec	Q-Q	GLot
23 S	10 W	WM	12	NW NE	
23 S	10 W	WM	12	SW NE	6
23 S	10 W	WM	12	NE NW	1
23 S	10 W	WM	12	NW NW	2
23 S	10 W	WM	12	SW NW	2
23 S	10 W	WM	12	SE NW	1

7. Transfer Application T-11965 proposes to change the character of use to Commercial.

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

8. 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 right is subject to forfeiture under ORS 540.610.
9. A collection cistern, storage tank, and pipeline 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-11965.
10. The proposed changes, as conditioned, would not result in enlargement of the right
11. The proposed changes, as conditioned, would not result in injury to other water rights.
12. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that

the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

Determination and Proposed Action

The additional point of diversion, change in place of use, and change in character of use proposed in Transfer Application T-11965 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-11965 is approved, the final order will include the following:

1. *The additional point of diversion, change in place of use, and change in character of use proposed in Transfer Application T-11965 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 43038 and any related decree.*
3. *Water right Certificate 43038 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The quantity of water diverted at the additional point of diversion together with that diverted at the original 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 (new and existing.)*
 - b. *The water user shall maintain the meters or measuring devices in good working order.*
 - c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
 - d. *To prevent enlargement and potential injury to other rights it will be necessary to install measurement devices on the delivery systems which supply water to the respective places of use. The following is a description of the conveyance system and placement of measuring devices for water supplied to the RV resort and Gordon property. Water diverted from the spring source is piped to a storage tank with an overflow return to an unnamed stream. From the storage tank, water is piped to the RV resort area and Gordon property. The outlet from the storage tank for the Gordon parcel shall be placed below (at a minimum 2') the outlet for the RV resort and shall have an inline 0.01 cfs (4.5 gpm) flow restrictor. A 0.04 cfs (18 gpm) inline flow restrictor shall be placed on the supply line to the RV resort. A totalizing flow meter (B) will be required on the resort supply line before the connection to the RV Park and another totalizing flow meter (A) on the distribution line servicing the park. A totalizing flow meter (C) will also be required at the*

(new) additional point of diversion from Loon Lake.

6. *A water use monitoring and reporting program will be required in order to ensure that only water from the spring source is diverted from the (new) additional Loon Lake pod. When water is being used at the RV resort or lodge it will be necessary to record the readings from all three flow meters (A, B & C – within one hour) on a daily basis and report the measurements monthly to OWRD. The amount of water available for use at the RV resort and lodge, as measured at flow meters A and C, cannot total more than that available at flow meter B and shall not exceed a total of 18 gpm (0.04 cfs). The RV resort supply line from the storage tank shall return any water not used in the resort to Upton Creek immediately below the resort's water distribution structure.*
7. *At times when there is no water use at the RV resort or lodge for a period of more than 24 hours the supply line from the storage tank to the resort shall be shutoff so as to return any overflow to the unnamed stream.*
8. *Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.*
The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.
9. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2017**. 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.*
10. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 31 day of March, 2016.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

This Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Sarah Henderson at 503-986-0890 or Sarah.A.Henderson@wr.d.state.or.us.

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