

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-9970, Lake County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN POINT OF
	)	APPROPRIATION, PLACE OF USE
	)	AND CHARACTER OF USE

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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

DON EDMUNDS
20903 KNOTT RD
BEND, OR 97702

Findings of Fact

1. On July 18, 2005, Don Edmunds filed a transfer application to change the place of use, character of use under Certificate 73395 and to change the place of use and point of appropriation under a portion of Certificate 82030. The Department assigned the application number T-9970.

2. The portion of the first right to be transferred is as follows:

Certificate: 73395 in the name of George E. Carlon; L. H. Ranch Inc. and Don and Carol Edmunds (perfected under Permit G-10888)

Use: IRRIGATION of 48.1 ACRES

Priority Date: NOVEMBER 13, 1987

Rate: 0.6 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: A WELL (Well 2) located in the Summer Lake Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
29 S	17 E	WM	26	NE SW	Well 2 - 179.1 FEET SOUTH AND 2605.9 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 26

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.
--

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	17 E	WM	26	NE SW	8.9
29 S	17 E	WM	26	SE SW	9.3
29 S	17 E	WM	26	NW SE	0.5
29 S	17 E	WM	26	SW SE	1.3
29 S	17 E	WM	35	NW NE	1.2
29 S	17 E	WM	35	SW NE	0.8
29 S	17 E	WM	35	NE NW	12.9
29 S	17 E	WM	35	SE NW	13.2

3. Application T-9970 proposes to change the character of use to Wildlife Habitat.
4. Application T-9970 also proposes to change the place of use of the right to:

Wildlife Habitat				
Twp	Rng	Mer	Sec	Q-Q
29 S	17 E	WM	26	NE SW
29 S	17 E	WM	26	SE SW
29 S	17 E	WM	26	NW SE
29 S	17 E	WM	26	SW SE
29 S	17 E	WM	35	NW NE
29 S	17 E	WM	35	SW NE
29 S	17 E	WM	35	NE NW
29 S	17 E	WM	35	SE NW

5. The portion of the second right to be transferred is as follows:

Certificate: 82030 in the name of Don Edmunds (perfected under Permit G-11952)

Use: WILDLIFE HABITAT (including waterfowl attraction, waterfowl rearing areas and ponds, and fish rearing ponds)

Priority Date: MARCH 11, 1994

Rate: 45.0 GALLONS PER MINUTE (gpm)

Source: A WELL (Hale Well) located in the Summer Lake Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
29 S	17E	WM	26	NE SW	Hale Well - 2800 FEET SOUTH AND 2680 FEET WEST FROM THE NE CORNER OF SECTION 26

Authorized Place of Use:

WILDLIFE HABITAT				
Twp	Rng	Mer	Sec	Q-Q
29 S	17 E	WM	35	SE NW

6. The point described in Certificate 73395 for Well 2 (*179.1 feet South and 2605.9 feet East from the West ¼ corner of Sec. 26, Section 26, T. 29 South, R. 17 East, WM*) and the point described in Certificate 82030 for the Hale Well (*2800 feet South and 2680 feet West from the NE corner of Sec. 26, Section 26, T. 29 South, R. 17 East, WM*) both describe the same point of appropriation.

7. Application T-9970 proposes to move 0.1 CFS (45.0 gpm) from the Hale well to a new point of appropriation (Well No. 3) located approximately 0.6 mile southwest and described as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
29 S	17 E	WM	26	SW SW	Well 3 - 50 FEET NORTH AND 440 FEET EAST FROM THE SW CORNER OF SECTION 26

8. Application T-9970 also proposes to change the place of use of that portion of the right to:

Wildlife Habitat				
Twp	Rng	Mer	Sec	Q-Q
29 S	17 E	WM	26	SW SW
29 S	17 E	WM	35	NW NW

9. Notice of the application for transfer was published on July 26, 2005, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
10. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
11. Wells and a distribution system sufficient to use the full amount of water allowed under the existing rights are present.
12. T-9970 proposes to increase the size of the place of use of the right evidenced by Certificate 73395 by including the current place of use within the proposed place of use. As defined by OAR 690-380-0100(2) the proposed change could result in enlargement if not conditioned so as to prevent use of more water than could have been beneficially used without waste for the existing authorized use. The best currently available information indicates that beneficial use of water for irrigation of crops in the area would not likely exceed 2.6 acre-feet per acre on 48.1 acres for a total volume of 125.1 acre-feet per year.
13. On September 21, 2006, Don Edmunds requested to limit the use under the right evidenced by Certificate 73395 to no more than 125.1 acre-feet per year at a rate not to exceed 0.6 cfs from Well 2 (Hale Well). Therefore, the proposed use, if conditioned to limit the total annual volume to 2.6 acre-feet per acre for the 48.1 acres under Certificate 73395 (125.1 acre-feet total annual volume), would not result in enlargement of the right.
14. The change of place of use and 0.1 CFS from the Hale well to Well #3 under certificate 82030 would not result in an enlargement of that right.
15. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The proposed changes in place of use, character of use, and point of appropriation in application T-9970 appear to be consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000, and will be approved provided that protests are not filed pursuant to OAR 690-380-4030.

If approved, the final order will include the following:

- 1. 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 73395, 82030 and any related decree.*
- 2. Certificates 73395 and 82030 are cancelled. New certificates will be issued describing the portions of the rights not involved in this transfer.*
- 3. The use of water under the right evidenced by Certificate 73395 (perfected under Permit G-10888) shall be limited to a rate of 0.6 cfs and a total annual volume of 125.1 acre-feet.*
- 4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. 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. The quantity of water diverted at the additional point of appropriation, together with that diverted at the old point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
- 6. The former place of use of the water transferred under Certificate 82030, described in Finding of Fact #5, shall no longer receive water as part of that right.*
- 7. When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*
- 8. When satisfactory proof of the completed changes is received, new certificates confirming the portions of the rights transferred will be issued.*

Dated at Salem, Oregon this 30th day of January 2007.


Phillip C. Ward, Director 

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1271.

This Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Dorothy Pedersen at 503-986-0890 or Dorothy.I.Pedersen@wrд.state.or.us.