

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

In the Matter of Transfer Application)
T-10244, Columbia County) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF A
) CHANGE IN PLACE OF USE, AND
) CHANGE IN CHARACTER 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

OLYMPIC FOREST PRODUCTS
attn: SAM SANDERS
69480 BANZER RD
MIST, OR 97016

Agent

GROUNDWATER SOLUTIONS, INC.
attn: JEFF BARRY AND TED RESLER
55 SW YAMHILL ST., SUITE 400
PORTLAND, OR 97204

Findings of Fact

Background

1. On September 26, 2006, Olympic Forest Products c/o Sam Sanders filed a transfer application to change the character of use and the place of use under Certificate 23390. The Department assigned the application number T-10244.

2. The right to be transferred is as follows:

Certificate: 23390 in the name of W. C. JOHNSON (perfected under Permit S-13703)

Use: IRRIGATION of 65.9 ACRES

Priority Date: MAY 12, 1939

Rate: 0.82 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year during the irrigation season

Source: NEHALEM RIVER, tributary to NEHALEM BAY

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
6 N	5 W	WM	15	SE NW	10	2860 FEET NORTH AND 1375 FEET EAST FROM THE SW CORNER OF SECTION 15

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	GLot	Acres
6 N	5 W	WM	15	NW NW	10	1.6
6 N	5 W	WM	15	SW NW	10	33.2
6 N	5 W	WM	15	SE NW	10	0.3
6 N	5 W	WM	15	NW SW		28.4
6 N	5 W	WM	16	SE NE		2.4

- Application T-10244 proposes to change the character of use to industrial use including maintaining an on-site reservoir constructed under Application R-86688. Application T-10244 proposes to change the place of use of the right to:

INDUSTRIAL				
Twp	Rng	Mer	Sec	Q-Q
6 N	5 W	WM	15	NE NW
6 N	5 W	WM	15	NW NW
6 N	5 W	WM	15	SW NW
6 N	5 W	WM	15	SE NW
6 N	5 W	WM	15	NW SW
6 N	5 W	WM	16	SE NE
6 N	5 W	WM	16	NE SE

RESERVOIR MAINTENANCE				
Twp	Rng	Mer	Sec	Q-Q
6 N	5 W	WM	16	NE SE

- Notice of the application for transfer was published on October 3, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
- On January 18, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10244 to the applicant. The cover letter that accompanied the draft Preliminary Determination set forth a deadline of February 22, 2007, in which the applicant could respond. The applicant responded on February 5, 2007, requesting that the Department proceed with the issuance of a Preliminary Determination.
- Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of T-10244.

8. Provided the rate of diversion is limited to no more than 0.82 cfs (being up to 0.82 cfs for industrial use and up to 0.82 cfs for pond maintenance, such that the total rate of diversion for both uses does not exceed 0.82 cfs), and is further limited to a maximum volume of 164.75 acre-feet during the irrigation season of each year, the proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The proposed changes in character of use and place of use in application T-10244 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 shall include the following:

1. *Water right certificate 23390 is cancelled.*
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 23390 and any related decree.*
3. *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.*
4. *The quantity of water for Industrial use and for Maintaining of the on site reservoir shall not exceed 0.82 cfs for each use, as long as the total for both uses does not exceed the maximum allowance of 0.82cfs. The total diverted at the point of diversion shall not exceed 164.75 acre-ft during the irrigation season for Industrial Use and the Maintaining of the on-site eservoir.*
5. *The former place of use of the transferred water shall no longer receive water for irrigation as part of this right.*
6. *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.*
7. *When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 8th day of June 2007.


P Phillip C. Ward, Director

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.

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