

Priority Date: AUGUST 17, 1981

Rate: 4.9 CUBIC FEET PER SECOND (CFS), being 2.2 CFS from Well 1 and 2.7 CFS from Well 2

Source: WELL 1 and WELL 2, in the Lower Klamath Lake Basin

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
40 S	9 E	WM	34	SW NE	1	Well 1 - 1520 FEET SOUTH AND 1780 FEET WEST FROM THE NE CORNER OF SECTION 34
40 S	9 E	WM	34	SE NE	2	Well 2 - 1760 FEET SOUTH AND 930 FEET WEST FROM THE NE CORNER OF SECTION 34

Authorized Place of Use:

Space Heating					
Twp	Rng	Mer	Sec	Q-Q	GLot
40 S	9 E	WM	34	SW NE	4
40 S	9 E	WM	34	SW NE	1
40 S	9 E	WM	34	SE NE	2

Fish Culture					
Twp	Rng	Mer	Sec	Q-Q	GLot
40 S	9 E	WM	34	SW NE	4

6. Application T-10327 proposes to add an authorized point of appropriation approximately 400 feet east from existing point of appropriation #1 (Well #1) and 400 feet west from existing point of appropriation #2 (Well #2) to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
40 S	9 E	WM	34	SW NE	1	1640 FEET SOUTH AND 1325 FEET WEST FROM THE NE CORNER OF SECTION 34

7. Application T-10327 proposes to change the character of use to Commercial, Industrial and Fish Culture.

8. Application T-10327 proposes to change the place of use of the right to an area that encompasses the original place of use, being:

Commercial, Industrial and Fish Culture					
Twp	Rng	Mer	Sec	Q-Q	GLot
40 S	9 E	WM	34	NE NE	
40 S	9 E	WM	34	NW NE	1
40 S	9 E	WM	34	SW NE	1
40 S	9 E	WM	34	SW NE	7
40 S	9 E	WM	34	SW NE	4
40 S	9 E	WM	34	SE NE	2
40 S	9 E	WM	34	SE NE	3
40 S	9 E	WM	34	NE NW	1
40 S	9 E	WM	34	NE NW	4
40 S	9 E	WM	34	SE NW	4

Commercial, Industrial and Fish Culture					
Twp	Rng	Mer	Sec	Q-Q	GLot
40 S	9 E	WM	34	SE NW	1
40 S	9 E	WM	34	NE SE	2
40 S	9 E	WM	34	NE SE	3
40 S	9 E	WM	35	SW NW	
40 S	9 E	WM	35	NW SW	1
40 S	9 E	WM	35	NW SW	4

9. Notice of the application for transfer was published on March 13, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On May 22, 2007, the Department e-mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10327 to the applicant. The draft Preliminary Determination set forth a deadline in which the applicant could respond.
11. The applicant responded to the draft Preliminary Determination on May 23, 2007. The applicant provided a statement agreeing to the inclusion of a condition necessary to prevent enlargement of the right and requested that the Department proceed with issuance of the Preliminary Determination. Additionally, due to the complex nature of the project, the applicant requested additional time through October 1, 2012, to allow sufficient time to complete the proposed changes. The revised date for completion of the changes is as stated in this order.

Transfer Review Criteria (OAR 690-380-4010)

12. 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.
13. 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 Application T-10327.
14. Certificate 67664 does not have a duty limit. As defined by OAR 690-380-0100(2), the proposed character of use change could result in enlargement of the right 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 space heating and fish culture would not likely exceed 2,530 acre-feet per year.
15. The proposed changes, as conditioned, would not result in enlargement of the right.
16. The proposed changes would not result in injury to other water rights.

Determination and Proposed Action

The changes in character of use, place of use and an additional point of appropriation proposed in application T-10327 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If application T-10327 is approved, the final order will include the following:

- 1. The changes in character of use, place of use and an additional point of appropriation proposed in application T-10327 are approved.*
- 2. Water right certificate 67664 is cancelled.*
- 3. 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 67664.*
- 4. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
- 5. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.*
- 6. The use of water under the right evidenced by Certificate 67664 shall be limited to a total annual volume of 2,530 acre feet.*
- 7. 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 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.*
- 8. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 18th day of July 2007.


Phillip C. Ward, Director

This Preliminary Determination was prepared by Vern Church. If you have questions about the information in this document, you may reach me at 541-883-4182 or Vernon.L.Church@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.