

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
38 S	4 W	WM	22	SW NE	13.0
38 S	4 W	WM	22	SW NW	3.0
38 S	4 W	WM	22	SE NW	17.0
38 S	4 W	WM	22	NE SW	11.0
38 S	4 W	WM	22	NW SW	0.5
38 S	4 W	WM	22	NW SE	17.4

4. Transfer Application T-9298 proposes to move the authorized point of diversion approximately 2.1 miles downstream from the authorized point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
38 S	4 W	WM	22	SW NE	1110 FEET NORTH AND 3360 FEET EAST FROM THE W1/4 CORNER OF SECTION 22

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

Certificate: 16232 in the name of J. C. and MATILDA GRUBB (confirmed by the Rogue River Decree)

Use: IRRIGATION of 51.5 ACRES and STOCK USE

Priority Date: 1894

Rate: 1.03 CUBIC FEET PER SECOND (cfs)

Source: APPLGATE RIVER, tributary to ROGUE RIVER

Authorized Place of Use:

IRRIGATION AND STOCK USE					
Twp	Rng	Mer	Sec	Q-Q	Acres
38 S	4 W	WM	22	SW NE	5.5
38 S	4 W	WM	22	SE NW	17.0
38 S	4 W	WM	22	NE SW	20.0
38 S	4 W	WM	22	NW SE	9.0

6. Certificate 16232 does not describe the location of the authorized point of diversion, however information is available from the Rogue River Decree, the Certified Water Rights Examiner and the applicant indicating that the authorized point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
38S	4W	WM	25	NE NW

7. Transfer Application T-9298 proposes to move the authorized point of diversion approximately 2.1 miles downstream from the authorized point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
38 S	4 W	WM	22	SW NE	1110 FEET NORTH AND 3360 FEET EAST FROM THE W1/4 CORNER OF SECTION 22

8. Notice of the application for transfer was published on December 24, 2002, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. On August 21, 2007, the Department mailed a copy of the *draft* Preliminary Determination proposing to approve Transfer Application T-9298 to the applicant. The cover letter that accompanied the *draft* Preliminary Determination requested an initialed, updated listing of the authorized place of use.
10. On September 17, 2007, the applicant discussed this issue with Department staff and requested the Department proceed with issuance of a Preliminary Determination. On September 19, 2007, the updated, authorized place of use listing was received by the Department. Additionally, the applicant had previously provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
11. 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)]

12. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are 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 rights were present within the five-year period prior to submittal of Transfer Application T-9298.
14. The proposed change would not result in enlargement of the rights.
15. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

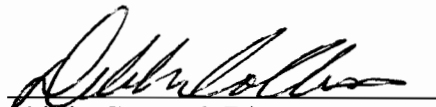
The changes in point of diversion proposed in application T-9298 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If application T-9298 is approved, the final order will include the following:

1. *The changes in point of diversion proposed in Transfer Application T-9298 are approved.*
2. *Water right Certificates 16232 and 32879 are cancelled. A new certificate will be issued describing that portion of Certificate 32879 not affected by this transfer.*

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 Certificates 32879 and 16232 and any related decree.*
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. *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.*
6. *Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.*
7. *Prior to diverting water, the water user shall install 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 measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.*
8. *The approved changes shall be completed and full beneficial use of the water shall be made **on or before October 1, 2009**. 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.*
9. *When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 26 day of September, 2007.


Phillip C. Ward, Director

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This Preliminary Determination was prepared by Susan Douthit. If you have questions about the information in this document, you may reach me at 503-986-0858 or Susan.M.Douthit@wrд.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.

