

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

In the Matter of Transfer Application)
T-10017, Lane County)
)
) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF A
) CHANGE IN PLACE OF USE AND
) REDESCRIBING THE PLACE 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

MCKENZIE RIVER GOLF COURSE, INC.
PO BOX 98
WALTERVILLE, OR 97489

Findings of Fact

Background

1. On October 13, 2005, McKenzie River Golf Course, Inc. filed an application to change the place of use under Certificate 76393. The Department assigned the application number T-10017.
2. On July 18, 2007, the Certified Water Rights Examiner submitted a revised transfer map on behalf of the applicant, which corrected an acreage figure and provided documentation justifying the need for a redescription of the authorized place of use under Certificate 76393.
3. The applicant submitted application revisions on August 16, 2007, that match the revised transfer application map.
4. The revised transfer map prepared by a certified water rights examiner for Transfer Application T-10017 was created based on data from a 2003 field survey. The 2003 field survey included a field location of the ¼ corner between Sections 17 and 20, which is monumented as a 2 ¼” brass cap set by the Lane County Public Works Department. The 2003 field survey data identified differences between the revised transfer map and the original final proof survey for Permit S-51229. While the place of use footprint remains unchanged, because of these more accurate mapping technologies (being a more accurate orientation and depiction of the section lines and the 1/16th section lines within the section), the description of the acreage actually irrigated in each ¼ ¼ section under Certificate 76393

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.
--

is slightly shifted. The revised transfer map involves a westerly shift of the 1/16th section lines shown on the map which more accurately shows the relationship between the 1/16th section lines and the area of use. In general, the 1/16th section lines shifted westerly an average of approximately 20 feet from that shown on the original final proof survey map for Permit S-51229. The following table describes the difference between the place of use description in Certificate 76393 and a proposed redescription of the place of use based on this finding:

Original Description of Place of Use for Certificate 76393							Proposed Redescription of Place of Use						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
17 S	1 E	WM	17	NE SW	7	15.20	17 S	1 E	WM	17	NE SW	7	15.15
17 S	1 E	WM	17	NW SW	6	17.30	17 S	1 E	WM	17	NW SW	6	16.94
17 S	1 E	WM	17	SW SW		8.40	17 S	1 E	WM	17	SW SW		8.46
17 S	1 E	WM	17	SE SW		0.30	17 S	1 E	WM	17	SE SW		0.44
17 S	1 E	WM	17	NW SE	8	0.20	17 S	1 E	WM	17	NW SE	8	0.45
17 S	1 E	WM	18	NE SE	3	0.10	17 S	1 E	WM	18	NE SE	3	0.08
17 S	1 E	WM	18	SE SE	3	5.00	17 S	1 E	WM	18	SE SE	3	4.98
TOTAL:						46.50	TOTAL:						46.50

5. As described in Finding #4 above, the actual irrigated lands under Certificate 76393 to be affected by Transfer Application T-10017 are located as follows:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
17 S	1 E	WM	17	NE SW	7	15.15
17 S	1 E	WM	17	NW SW	6	16.94
17 S	1 E	WM	17	SW SW		8.46
17 S	1 E	WM	17	SE SW		0.44
17 S	1 E	WM	17	NW SE	8	0.45
17 S	1 E	WM	18	NE SE	3	0.08
17 S	1 E	WM	18	SE SE	3	4.98
TOTAL ACRES:						46.50

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

Certificate: 76393 in the name of MCKENZIE RIVER GOLF COURSE, INC.
(perfected under Permit S-51229)

Use: IRRIGATION of 11.5 ACRES

Priority Date: APRIL 3, 1990

Rate: 0.14 CUBIC FOOT PER SECOND (CFS)

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

Source: HAUGEN CREEK, tributary to MCKENZIE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
17 S	1 E	WM	17	NW SW	6	1539 FEET NORTH AND 1284 FEET EAST FROM THE SW CORNER OF SECTION 17

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
17 S	1 E	WM	17	NE SW	7	5.03
17 S	1 E	WM	17	NW SW	6	1.80
17 S	1 E	WM	17	SW SW		3.09
17 S	1 E	WM	17	SE SW		0.41
17 S	1 E	WM	17	NW SE	8	0.45
17 S	1 E	WM	18	SE SE	3	0.72
TOTAL:						11.50

7. Transfer Application T-10017 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
17 S	1 E	WM	17	NE SW	7	6.44
17 S	1 E	WM	17	NW SW	6	2.64
17 S	1 E	WM	17	SW SW		1.18
17 S	1 E	WM	18	NE SE	3	0.11
17 S	1 E	WM	18	SE SE	3	1.13
TOTAL:						11.50

8. Notice of the application for transfer was published on October 25, 2005, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. On August 17, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10017 to the applicant. The draft Preliminary Determination set forth a deadline of September 17, 2007, 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.

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

10. 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.
11. 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 Transfer Application T-10017.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.

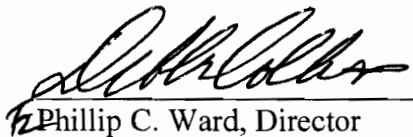
Determination and Proposed Action

The change in place of use proposed in application T-10017 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000, and the place of use should be redescribed. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If application T-10017 is approved, the final order will include the following:

- 1. The change in place of use and redescription of the place of use proposed in application T-10017 is approved.*
- 2. Water right certificate 76393 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer, consistent with the redescription in Finding of Fact #4.*
- 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 76393 and any related decree.*
- 4. The former place of use of the transferred rights shall no longer receive water under the right.*
- 5. When required by the Department, the water user shall install, maintain and operate 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.*
- 6. The approved change 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 change and full beneficial use of the water.*
- 7. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 17 day of October 2007.


Phillip C. Ward, Director

This Preliminary Determination was prepared by Lisa Jaramillo. If you have questions about the information in this document, you may reach me at 503-986-0880 or Lisa.J.Jaramillo@wrdd.state.or.us.

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