

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-9955, Deschutes County)	PROPOSING APPROVAL OF
)	CHANGES 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

ROATS WATER SYSTEM, INC.
ATTN: BILL ROATS
61147 HAMILTON LANE
BEND, OR 97702

Findings of Fact

1. On June 16, 2005, Roats Water System, Inc. filed an application to transfer the point of appropriation, place of use and character of use under Certificates 81657 and 81672. The Department assigned the application number T-9955.
2. The applicant amended Transfer Application T-9955 on January 5, 2007, to remove the proposed place of use and character of use changes for the supplemental irrigation portion of Certificate 81657.
3. The FIRST right to be transferred is as follows:
Certificate: 81657 in the name of ROATS WATER SYSTEM, INC. (perfected under Permit G-1890)
Use: GROUP DOMESTIC and SUPPLEMENTAL IRRIGATION of 13.0 ACRES
Priority Date: MARCH 23, 1961
Rate: 0.66 CUBIC FOOT PER SECOND (CFS), being 0.5 CFS for group domestic use and 0.16 CFS for supplemental irrigation
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre feet per acre per year
Source: WELL #1 in the DESCHUTES RIVER BASIN

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 Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
18 S	12 E	WM	17	NE NW	320 FEET SOUTH AND 270 FEET WEST FROM THE NORTH 1/4 CORNER OF SECTION 17

Authorized Place of Use:

GROUP DOMESTIC				
Twp	Rng	Mer	Sec	Q-Q
18 S	12 E	WM	7	SE SE
18 S	12 E	WM	8	NE NE
18 S	12 E	WM	8	NW NE
18 S	12 E	WM	8	SW NE
18 S	12 E	WM	8	SE NE
18 S	12 E	WM	8	NE NW
18 S	12 E	WM	8	NW NW
18 S	12 E	WM	8	SW NW
18 S	12 E	WM	8	SE NW
18 S	12 E	WM	8	NE SW
18 S	12 E	WM	8	NW SW
18 S	12 E	WM	8	SW SW
18 S	12 E	WM	8	SE SW
18 S	12 E	WM	8	NE SE
18 S	12 E	WM	8	NW SE
18 S	12 E	WM	8	SW SE
18 S	12 E	WM	8	SE SE
18 S	12 E	WM	9	NE SW
18 S	12 E	WM	9	NW SW
18 S	12 E	WM	9	SW SW
18 S	12 E	WM	9	SE SW
18 S	12 E	WM	17	NE NE
18 S	12 E	WM	17	NW NE
18 S	12 E	WM	17	SW NE
18 S	12 E	WM	17	SE NE
18 S	12 E	WM	17	NE NW
18 S	12 E	WM	17	NW NW
18 S	12 E	WM	17	SW NW
18 S	12 E	WM	17	SE NW
18 S	12 E	WM	18	NE NE

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
18 S	12 E	WM	17	SE NE	2400 (Map 17)	13.0

4. Application T-9955 proposes to move the authorized point of appropriation approximately 2.5 miles south from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
18 S	12 E	WM	30	SW NW	2445 FEET SOUTH AND 1200 FEET EAST FROM THE NW CORNER OF SECTION 30

5. Application T-9955 also proposes to change the character of use for the Group Domestic portion of Certificate 81657 to Quasi-Municipal and to change the place of use for this portion of the right to:

QUASI-MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
18 S	12 E	WM	7	SE SE
18 S	12 E	WM	8	NE NE
18 S	12 E	WM	8	NW NE
18 S	12 E	WM	8	SW NE
18 S	12 E	WM	8	SE NE
18 S	12 E	WM	8	NE NW
18 S	12 E	WM	8	NW NW
18 S	12 E	WM	8	SW NW
18 S	12 E	WM	8	SE NW
18 S	12 E	WM	8	NE SW
18 S	12 E	WM	8	NW SW
18 S	12 E	WM	8	SW SW
18 S	12 E	WM	8	SE SW
18 S	12 E	WM	8	NE SE
18 S	12 E	WM	8	NW SE
18 S	12 E	WM	8	SW SE
18 S	12 E	WM	8	SE SE
18 S	12 E	WM	9	SW NW
18 S	12 E	WM	16	NW NW
18 S	12 E	WM	16	SW NW
18 S	12 E	WM	17	NE NE
18 S	12 E	WM	17	NW NE
18 S	12 E	WM	17	SW NE
18 S	12 E	WM	17	SE NE
18 S	12 E	WM	17	NE NW
18 S	12 E	WM	17	NW NW
18 S	12 E	WM	17	SW NW
18 S	12 E	WM	17	SE NW
18 S	12 E	WM	17	NE SW
18 S	12 E	WM	17	NW SW
18 S	12 E	WM	17	NE SE
18 S	12 E	WM	18	NE NE

6. The SECOND right to be transferred is as follows:

Certificate: 81672 in the name of ROATS WATER SYSTEM, INC. (perfected under Permit G-3128)

Use: GROUP DOMESTIC and IRRIGATION of 6.0 ACRES

Priority Date: DECEMBER 22, 1965

Rate: 0.56 CUBIC FOOT PER SECOND (CFS), being 0.5 CFS for group domestic use and 0.06 CFS for irrigation

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

Source: WELL #2 in the DESCHUTES RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
18 S	12 E	WM	17	NE NW	300 FEET SOUTH AND 320 FEET WEST FROM THE NORTH 1/4 CORNER OF SECTION 17

Authorized Place of Use:

GROUP DOMESTIC				
Twp	Rng	Mer	Sec	Q-Q
18 S	12 E	WM	7	SE SE
18 S	12 E	WM	8	NE NE
18 S	12 E	WM	8	NW NE
18 S	12 E	WM	8	SW NE
18 S	12 E	WM	8	SE NE
18 S	12 E	WM	8	NE NW
18 S	12 E	WM	8	NW NW
18 S	12 E	WM	8	SW NW
18 S	12 E	WM	8	SE NW
18 S	12 E	WM	8	NE SW
18 S	12 E	WM	8	NW SW
18 S	12 E	WM	8	SW SW
18 S	12 E	WM	8	SE SW
18 S	12 E	WM	8	NE SE
18 S	12 E	WM	8	NW SE
18 S	12 E	WM	8	SW SE
18 S	12 E	WM	8	SE SE
18 S	12 E	WM	9	NE SW
18 S	12 E	WM	9	NW SW
18 S	12 E	WM	9	SW SW
18 S	12 E	WM	9	SE SW
18 S	12 E	WM	17	NE NE
18 S	12 E	WM	17	NW NE
18 S	12 E	WM	17	SW NE
18 S	12 E	WM	17	SE NE
18 S	12 E	WM	17	NE NW
18 S	12 E	WM	17	NW NW
18 S	12 E	WM	17	SW NW
18 S	12 E	WM	17	SE NW
18 S	12 E	WM	18	NE NE

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
18 S	12 E	WM	8	NE SW	703 (Map 8D)	0.25
18 S	12 E	WM	8	NE SW	1502 (Map 8C)	0.25
18 S	12 E	WM	8	SE SW	1000 (Map 8C)	2.00
18 S	12 E	WM	8	NW SE	900 (Map 8D)	1.25
18 S	12 E	WM	17	NE NW	100 (Map 17BA)	0.75
18 S	12 E	WM	17	NE NW	200 (Map 17BA)	0.25
18 S	12 E	WM	17	NE NW	300 (Map 17BA)	1.00
18 S	12 E	WM	17	NE NW	704 (Map 17BA)	0.25

7. Application T-9955 proposes to move the authorized point of appropriation approximately 2.5 miles south from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
18 S	12 E	WM	30	SW NW	2445 FEET SOUTH AND 1200 FEET EAST FROM THE NW CORNER OF SECTION 30

8. Application T-9955 also proposes to change the character of use to Quasi-Municipal and to change the place of use of the right to:

QUASI-MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
18 S	12 E	WM	7	SE SE
18 S	12 E	WM	8	NE NE
18 S	12 E	WM	8	NW NE
18 S	12 E	WM	8	SW NE
18 S	12 E	WM	8	SE NE
18 S	12 E	WM	8	NE NW
18 S	12 E	WM	8	NW NW
18 S	12 E	WM	8	SW NW
18 S	12 E	WM	8	SE NW
18 S	12 E	WM	8	NE SW
18 S	12 E	WM	8	NW SW
18 S	12 E	WM	8	SW SW
18 S	12 E	WM	8	SE SW
18 S	12 E	WM	8	NE SE
18 S	12 E	WM	8	NW SE
18 S	12 E	WM	8	SW SE
18 S	12 E	WM	8	SE SE
18 S	12 E	WM	9	SW NW
18 S	12 E	WM	16	NW NW
18 S	12 E	WM	16	SW NW
18 S	12 E	WM	17	NE NE
18 S	12 E	WM	17	NW NE
18 S	12 E	WM	17	SW NE
18 S	12 E	WM	17	SE NE
18 S	12 E	WM	17	NE NW
18 S	12 E	WM	17	NW NW
18 S	12 E	WM	17	SW NW
18 S	12 E	WM	17	SE NW
18 S	12 E	WM	17	NE SW
18 S	12 E	WM	17	NW SW
18 S	12 E	WM	17	NE SE
18 S	12 E	WM	18	NE NE

9. Notice of the application for transfer was published on July 5, 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. A pump, pipeline, and distribution system sufficient to use the full amount of water allowed under the existing right is present.
12. The proposed changes, as conditioned, would not result in enlargement of the rights.
13. The proposed changes, as conditioned, would not result in injury to other water rights.

Determination and Proposed Action

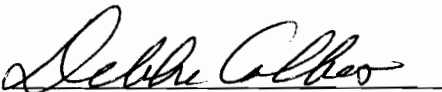
The changes in point of appropriation, place of use and character of use proposed in Transfer Application T-9955, as conditioned, appear to be consistent with the requirements of ORS 537.705, 540.505 to 540.580, and OAR 690-380-5000, and will be approved provided that protests are not filed pursuant to OAR 690-380-4030.

If Transfer Application T-9955 is approved, the final order will include the following:

1. The changes in point of appropriation, place of use and character of use in Transfer Application T-9955 are approved.
2. The right to 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 81657 and 81672 and any related decree.
3. Water Right Certificates 81657 and 81672 are cancelled.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. 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.
6. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.
7. The former place of use from which water has been transferred shall no longer receive water as part of these rights.
8. The use of the irrigation portion under Certificate 81672 for quasi-municipal use shall be allowed during the time period April 1 to November 1 of each year (irrigation season) and shall be limited to a rate of diversion of 0.06 cubic foot per second, being further limited to no more than 18.0 acre feet of water annually.
9. The use of the group domestic portion under Certificate 81672 for quasi-municipal use shall be allowed year round and shall be limited to a rate of diversion of 0.5 cubic foot per second, being further limited to no more than 181.0 acre feet of water annually.

10. The use of the group domestic portion under Certificate 81657 for quasi-municipal use shall be allowed year round and shall be limited to a rate of diversion of 0.5 cubic foot per second, being further limited to no more than 181.0 acre feet of water annually.
11. Prior to diverting water at the new point of appropriation, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. 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.
12. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 27 day of February 2007.


Phillip C. Ward, Director

This preliminary determination was prepared by Lisa Jaramillo. If you have any questions about the information in this preliminary determination, 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.

