

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

In the Matter of Transfer Application) **PRELIMINARY DETERMINATION**
T-10216, Lane County) **PROPOSING APPROVAL OF AN**
) **ADDITIONAL POINT OF DIVERSION**

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

EMILY J. EYMANN
91947 MARCOLA ROAD
SPRINGFIELD OR 97478

Agent

EGR & ASSOCIATES, INC.
ATTN: ROBERT D. MURRAY
2535B PRAIRIE ROAD
EUGENE, OR 97402

Findings of Fact

1. On July 19, 2006, Emily J. and Richard Eymann filed a transfer application to add an additional point of diversion under Certificate 10143. The Department assigned the application number T-10216.
2. On January 26, 2007, amendments to the application and map were submitted clarifying the survey coordinates for the proposed additional point of diversion.
3. The portion of the right to be transferred is as follows:

Certificate: 10143 in the name of C. R. DOWNING AND FRANK TEAL (perfected under Permit S-10174)

Use: IRRIGATION of 105.5 ACRES

Priority Date: MAY 1, 1931

Rate: 1.32 CUBIC FEET PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre

Source: PARSONS CREEK, tributary to MOHAWK RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
16 S	2 W	WM	13	SE SW

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	Acres
16 S	2 W	WM	24	NE NW	15.5
16 S	2 W	WM	24	SW NW	10.0
16 S	2 W	WM	24	SE NW	30.0
16 S	2 W	WM	24	NE SW	30.0
16 S	2 W	WM	24	NW SW	10.0
16 S	2 W	WM	24	SW SW	4.0
16 S	2 W	WM	24	SE SW	6.0

4. Transfer Application T-10216 proposes to add an authorized point of diversion approximately 1600 feet mile downstream from the existing authorized point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
16 S	2 W	WM	24	SE NW	774 FEET SOUTH AND 1189 FEET WEST FROM THE NE CORNER OF DLC 40

5. Notice of the application for transfer was published on July 25, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
6. Lane County planning officials did request that the applicant seek additional land use review should this proposed change affect riparian vegetation at the location of the additional point of diversion.
7. Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

Determination and Proposed Action


The addition of a point of diversion proposed in Transfer Application T-10216 appears 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 change and subsequent use of water shall be subject to the following conditions:

1. 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 10143 and any related decree.
2. Upon the issuance of a final order approving Transfer Application T-10216 Certificate 10143 will be cancelled.

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 diverted at the additional point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
5. 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.
6. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 25 day of April 2007.


Pm Phillip C. Ward, Director

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@ wrd.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.