



7. On December 9, 2014, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11879 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of January 8, 2015, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
8. On January 16, 2015, the Department issued a Preliminary Determination proposing to approve Transfer T-11879 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on January 27, 2015, and in the Frontier Advertiser newspaper on January 27, 2015 and February 3, 2015, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
9. It appears that the place of use depicted in the 2000 final proof survey for water right Certificates 76811 and 76812 and the transfer application map for T-11879 are the same area on the ground. Though the footprint is the same, use of current technology to measure the area results in a different quantification of acreage within 1/4 1/4's. This leads the Department to conclude that the land to which the right has always been appurtenant should be re-described.
10. Aerial photos from 2000-2014 show the irrigated lands as described by the CWRE on the re-description maps submitted for Certificates 76811 and 76812.
11. The following table lists the place of use as described in the existing water right Certificate 76811 and a proposed re-description based on the above findings:

Twp	Rng	Sec	Original Description of Place of Use		Proposed Re-Description of Place of Use	
			Q-Q	Acres	Q-Q	Acres
14 S	11 E	1	SE NE	9.9	SW NE	3.4
14 S	11 E	1	NE SE	30.4	SE NE	25.1
14 S	11 E	1	SW SE	2.4	NE SE	26.9
14 S	11 E	1	SE SE	12.7		
Total:				55.4	Total:	55.4

12. The following table lists the place of use as described in the existing water right Certificate 76812 and a proposed re-description based on the above findings:

Twp	Rng	Sec	Original Description of Place of Use		Proposed Re-Description of Place of Use	
			Q-Q	Acres	Q-Q	Acres
14 S	11 E	1			NW SW	0.3
14 S	11 E	1	NE SW	5.0	NE SW	17.7
14 S	11 E	1	SW SW	22.0	SW SW	21.8
14 S	11 E	1	SE SW	34.0	SE SW	21.3
14 S	11 E	1	NW SE	16.0	NW SE	28.3
14 S	11 E	1	SW SE	36.5	SW SE	32.7
14 S	11 E	1	SE SE	26.0	SE SE	38.9
14 S	11 E	2	SE SE	11.0	SE SE	23.1
14 S	11 E	11	NE NE	23.0	NE NE	11.3

Twp	Rng	Sec	Original Description of Place of Use		Proposed Re-Description of Place of Use	
			Q-Q	Acres	Q-Q	Acres
14 S	11 E	12	NE NE	23.5	NE NE	10.6
14 S	11 E	12	NW NE	9.0		
Total:				206.0	Total:	206.0

13. Water right Certificates 76811 and 76812 describe the original point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	11 E	WM	1	SW SE	1240 FEET NORTH AND 1460 FEET WEST FROM THE SE CORNER OF SECTION 1

14. The water right re-description maps for Certificate 76811 and 76812 more accurately describes the point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	11 E	WM	1	NW SE	1820 FEET NORTH AND 1400 FEET WEST FROM THE SE CORNER OF SECTION 1

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

**Certificate:** 76811 in the name of LHR, LTD (perfected under Permit G-8566)  
**Use:** IRRIGATION of 5.5 ACRES  
**Priority Date:** JULY 31, 1978  
**Rate:** 0.07 CUBIC FOOT PER SECOND. The quantity of water allowed herein together with any other right from this point of appropriation shall not exceed the capacity of this well at the time of perfection of this right (i.e. Certificate 76811, on March 8, 2001).  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** A WELL in the DESCHUTES BASIN

**Authorized Point of Appropriation (as re-described in Finding of Fact above):**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	11 E	WM	1	NW SE	1820 FEET NORTH AND 1400 FEET WEST FROM THE SE CORNER OF SECTION 1

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	11 E	WM	1	NE SE	5.5

16. Transfer Application T-11879 proposes to move the authorized point of appropriation approximately 13.7 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	10 E	WM	20	SW NW	WING WELL: 1200 FEET NORTH AND 480 FEET EAST FROM THE W 1/4 CORNER OF SECTION 20

17. Transfer Application T-11879 also proposes to change the character of use of 1.5 acres of the right to storage.

STORAGE				
Twp	Rng	Mer	Sec	Q-Q
15 S	10 E	WM	20	SW NW

18. Transfer Application T-11879 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	10 E	WM	20	SW NW	4.0

**Transfer Review Criteria (OAR 690-380-4010)**

19. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
20. 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-11879.
21. The proposed changes, as conditioned, would not result in enlargement of the right provided the annual volume of water diverted for storage does not exceed 4.5 acre-feet during the irrigation season of each year.
22. The proposed changes would not result in injury to other water rights.
23. All other application requirements are met.

**Conclusions of Law**

The change in point of appropriation and change in place of use and change in character of use proposed in Transfer Application T-11879 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

1. The change in point of appropriation and change in place of use and change in character of use proposed in Transfer Application T-11879 are approved.
2. 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 76811 and any related decree.

3. Water right Certificate 76811 is cancelled. A new certificate will be issued describing that portion of water right Certificate 76811 not affected by this transfer and describing the re-description within this order.
4. Water right Certificate 76812 is cancelled. A new certificate will be issued describing the place of use and point of diversion that have been re-described within this order.
5. The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
6. Water use measurement conditions:
  - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device at each new point of appropriation.
  - b. The water user shall maintain the meter or measuring devices in good working order.
  - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
7. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
8. The former place of use of the transferred right shall no longer receive water under the right.
9. The storage right shall be limited to 4.5 acre-feet per year to avoid enlargement.
10. The pond must be lined in order to keep the storage water in the pond for any large amount of time.
11. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. A Claim of Beneficial Use prepared by a Certified Water Right 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.
12. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 6 day of March, 2015.

  
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Dwight French, Water Right Services Division Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

Mailing date: MAR 11 2015