

5. On June 18, 2013, the Department sent out a draft of the Preliminary Determination to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 17, 2013, 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.
6. On August 14, 2013, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11539 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the Transfer Application was published on the Department's weekly notice on September 3, 2013, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. The first primary water right and its layered supplemental water right to be transferred are as follows:

Certificate: 86961 in the name of PLEASANT VIEW IRRIGATION CO., c/o WALLA WALLA IRRIGATION DISTRICT (perfected under Permit S-1216)

Use: IRRIGATION of 1.0 ACRE

Priority Date: MARCH 25, 1912

Rate: 0.0125 CUBIC FOOT PER SECOND

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 during the irrigation season of each year.

Source: LITTLE WALLA WALLA RIVER, tributary to the WALLA WALLA RIVER

Authorized Point of Diversion:

| Twp | Rng | Mer | Sec | Q - Q | Measured Distances |
|-----|------|-----|-----|-------|--|
| 6 N | 35 E | WM | 35 | SE SE | 5 FEET NORTH AND 1100 FEET WEST FROM THE SE CORNER OF SECTION 35 |

Authorized Place of Use:

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q - Q | Acres |
| 6 N | 35 E | WM | 34 | NW SW | 1.0 |

Certificate: 86964 in the name of PLEASANT VIEW IRRIGATION DISTRICT, c/o WALLA WALLA IRRIGATION DISTRICT (perfected under Permit S-26001)

Use: SUPPLEMENTAL IRRIGATION of 1.0 ACRE

Priority Date: JANUARY 16, 1959

Rate: 0.025 CUBIC FOOT PER SECOND

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 0.0375 of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

Source: LITTLE WALLA WALLA RIVER, tributary to WALLA WALLA RIVER

Authorized Point of Diversion:

| Twp | Rng | Mer | Sec | Q - Q |
|-----|------|-----|-----|-------|
| 5 N | 35 E | WM | 2 | NE NE |

Authorized Place of Use:

| IRRIGATION (IR) and SUPPLEMENTAL IRRIGATION (IS) | | | | | | |
|--|------|-----|-----|-------|---------------------|------------|
| Twp | Rng | Mer | Sec | Q - Q | Certificate (acres) | |
| | | | | | 86961 (IR) | 86964 (IS) |
| 6 N | 35 E | WM | 34 | NW SW | 1.0 | 1.0 |

8. Transfer Application T-11539 proposes to change the place of use of the above described rights to:

| IRRIGATION (IR) and SUPPLEMENTAL IRRIGATION (IS) | | | | | | |
|--|------|-----|-----|-------|---------------------|------------|
| Twp | Rng | Mer | Sec | Q - Q | Certificate (acres) | |
| | | | | | 86961 (IR) | 86964 (IS) |
| 6 N | 35 E | WM | 34 | SE SE | 1.0 | 1.0 |

9. The second primary right to be transferred is as follows:

Certificate: 87556 (supersedes 85456) in the name of HUDSON BAY DISTRICT IMPROVEMENT COMPANY (perfected under Permit S-43973)
Use: IRRIGATION of 1.0 ACRE
Priority Date: SEPTEMBER 28, 1978
Rate: 0.0275 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to 0.0375 of one cubic foot per second (or its equivalent) for each acre irrigated during the irrigation season of each year provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

Source: LITTLE WALLA WALLA RIVER, tributary to the WALLA WALLA RIVER

Authorized Point of Diversion:

| Twp | Rng | Mer | Sec | Q - Q | Measured Distances |
|-----|------|-----|-----|-------|---|
| 5 N | 35 E | WM | 1 | NE NW | POD #1 – 910 FEET SOUTH AND 700 FEET WEST FROM THE N¼ CORNER OF SECTION 1 |
| 5 N | 35 E | WM | 12 | SW NE | POD #2 – 1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER OF SECTION 12 |

Authorized Place of Use:

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q - Q | Acres |
| 6 N | 35 E | WM | 34 | SE SE | 1.0 |

10. Transfer Application T-11539 proposes to change the place of use of the above described 1.0 acre to a different configuration within the same quarter quarter and tax lot to:

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q - Q | Acres |
| 6 N | 35 E | WM | 34 | SE SE | 1.0 |

11. Transfer Application T-11539 shall be processed simultaneously with Transfer Application T-11046, to alleviate a layered situation with an existing water right on the proposed "TO" lands in Transfer Application T-11539.

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. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
13. Diversion structures and ditches 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-11539.
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.

Partial Cancellation of a Water Right

16. There is another layered water right for supplemental irrigation (Certificate 87770) on the Certificates 86961 and 86964 "FROM" lands. The landowners, Paul and Mary Zehr do not intend to transfer this portion of Certificate 87770 and on February 21, 2013, Paul and Mary Zehr submitted an affidavit to voluntarily cancel this 1.0 acre portion.

The portion of the following right is proposed to be cancelled:

Certificate: 87770 in the name of PAUL ZEHR and NITA STOCKE (perfected under permit G-13451)
Use: SUPPLEMENTAL IRRIGATION of 1.0 ACRE
Priority Date: JUNE 23, 1995
Rate: 0.013 cfs
Season of Use: March 1 through October 31
Source: ZEHR WELL within the PINE CREEK BASIN

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q - Q | Measured Distances |
|-----|------|-----|-----|-------|---|
| 6 N | 35 E | WM | 34 | NW SW | ZEHR WELL- 950 FEET SOUTH AND 1220 FEET EAST FROM THE W¼ CORNER OF SECTION 34 |

Authorized Place of Use to be Cancelled:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 6 N | 35 E | WM | 34 | NW SW | 1.0 |

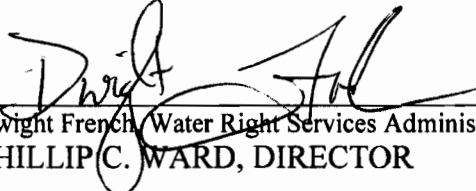
Conclusions of Law

The changes in place of use proposed in Transfer Application T-11539 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the abandoned right should be cancelled.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-11539 is approved, concurrently with Transfer Application T-11046. The portion of the right that has been abandoned is cancelled.
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 Certificates 86961, 86964, 87556, and any related decree.
3. Water right Certificate 87770 is cancelled. A new certificate will be issued describing that portion of the right not affected by the partial cancellation and transfer.
4. Water right Certificates 86961, 86964, and 87556 are modified. The Department will issue superseding certificates describing the rights when it determines that it is necessary for record keeping.
5. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
6. The former place of use of the transferred rights shall no longer receive water under these rights.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before October 1, 2015. 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 change and full beneficial use of the water.
8. After satisfactory proof of beneficial use is received, the Department will issue new certificates confirming the rights transferred and when it determines that it is necessary for record keeping.

Dated at Salem, Oregon this 22 day of October, 2013.


Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing date: OCT 28 2013