



4. On August 20, 2013, the Department mailed a copy of the draft Preliminary Determination proposing to approve transfer application T-11274 to the applicant. The Preliminary Determination set forth a deadline of September 20, 2013, for the applicant to respond. On September 17, 2013, 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.
5. On October 4, 2013, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11274 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on October 8, 2013, and in the Blue Mountain Eagle newspaper on October 16, 23, and 30, 2013, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
6. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.
7. The portion of the first right to be transferred is as follows:

**Certificate:** 52195 in the name of MOUNT VERNON IRRIGATION AND POWER C.O. (perfected under Permit E-88)  
**Use:** IRRIGATION of 3.7 ACRES  
**Priority Date:** MARCH 6, 1911  
**Rate:** 0.046 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre  
**Source:** JOHN DAY RIVER, tributary to the COLUMBIA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
13 S	30 E	WM	25	NE NW	PANAMA DITCH - SOUTH 72 DEGREES EAST 2705 FEET FROM THE NW CORNER OF SECTION 25

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
13 S	30 E	WM	29	SE NE	3.7

8. Transfer Application T-11274 proposes to change the place of use to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
13 S	30 E	WM	28	SW NW	2.1
13 S	30 E	WM	28	NW SW	1.6

9. Transfer Application T-11274 also proposes to change the point of diversion downstream approximately 3.5 miles on the John Day River for above described 3.7 acres to:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
13 S	30 E	WM	28	NW SW	MOORE PUMP STATION - 220 FEET SOUTH AND 540 FEET EAST FROM THE W¼ CORNER OF SECTION 28

10. The portion of the second water right to be transfer is as follows:

**Certificate:** 88101 in the name of MOUNT VERNON IRRIGATION AND POWER C.O. (perfected under Permit S-46213)

**Use:** SUPPLEMENTAL IRRIGATION of 3.7 ACRES

**Priority Date:** JANUARY 8, 1981

**Rate:** 0.046 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 a diversion of ONE-EIGHTIETH of one cubic foot per second, limited to a diversion of not to exceed 5.0 acre-feet per acre for each acre irrigated during the irrigation season of each year

**Source:** JOHN DAY RIVER, tributary to the COLUMBIA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
13 S	30 E	WM	25	NE NW	LATITUDE: NORTH 44.4166 LONGITUDE: WEST -119.0549

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
13 S	30 E	WM	29	SE NE	3.7

11. Transfer Application T-11274 proposes to change the place of use to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
13 S	30 E	WM	29	SW NW	2.1
13 S	30 E	WM	29	NW SW	1.6

12. Transfer Application T-11274 also proposes to change the point of diversion downstream approximately 3.5 miles on the John Day River for above described 3.7 acres to:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
13 S	30 E	WM	28	NW SW	MOORE PUMP STATION - 220 FEET SOUTH AND 540 FEET EAST FROM THE W¼ CORNER OF SECTION 28

13. The portion of the third water right to be transferred is as follows:

**Certificate:** 87596 in the name of DONALD AND ELSA BOYER (perfected under Permit S-28815)

**Use:** IRRIGATION of 16.8 ACRES

**Priority Date:** APRIL 25, 1963

**Rate:** 0.42 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, shall be limited to a diversion of ONE-FORTIETH 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 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, provided further that the right to the use of water is limited to the period when the flow of the John Day River is more than 30 cfs at USGS Gage 14-0465 and more than 20 cfs at USGS Gage 14-0480

**Source:** Beech Creek, tributary to the JOHN DAY RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
13 S	30 E	WM	28	SE NW	BEECH CREEK - 1620 FEET SOUTH AND 2330 EAST FROM THE NW CORNER OF SECTION 28

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
13 S	30 E	WM	28	SW NW	6.0
13 S	30 E	WM	28	NW SW	8.0
13 S	30 E	WM	29	SE NE	1.8
13 S	30 E	WM	29	NE SE	1.0

14. Transfer Application T-11274 proposes to change the place of use to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
13 S	30 E	WM	28	SW NW	8.0
13 S	30 E	WM	28	NW SW	3.9
13 S	30 E	WM	29	SE NE	4.3
13 S	30 E	WM	29	NE SE	0.6

15. Transfer Application T-11274 also proposes to change the point of diversion down Beech Creek approximately 1000 feet and downstream approximately 1110 feet on the John Day River for above described 16.8 acres to:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
13 S	30 E	WM	28	NW SW	MOORE PUMP STATION – 220 FEET SOUTH AND 540 FEET EAST FROM THE W¼ CORNER OF SECTION 28

16. The source of water under this right is Beech Creek. The quantity of water diverted at the new point of diversion on the John Day River shall not exceed the quantity of water lawfully available at the original point of diversion on Beech Creek.

17. To ensure the source remains Beech Creek, suitable measuring devices for a “measure in – measure out” of the Beech Creek water entering the John Day River and then being pumped out again at the proposed point of diversion must be installed.

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

18. Water has been used within the five-year period prior to submittal of the transfer application according to the terms and conditions of the right. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

19. A diversion structure and ditch 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-11274.

20. The proposed changes would not result in enlargement of the rights.

21. The proposed changes would not result in injury to other water rights.

**Conclusions of Law**

The change in points of diversion and places of use proposed in Transfer Application T-11274 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

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

1. The changes in points of diversion and places of use proposed in Transfer Application T-11274 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 52195, 88101 and 87596 and any related decree.
3. Water right certificates 52195, 88101 and 87596 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.
4. The quantity of water diverted at the new points of diversion together with that diverted at the original points of diversion shall not exceed the quantity of water lawfully available at the original points of diversion.
5. Water use measurement conditions:
  - a. Before water use may begin under this order, the water user shall install a measuring device in the main channel of Beech Creek below the authorized point of diversion to enable measurement of the quantity of Beech Creek water that will enter the John Day River. 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.
  - b. The water user must coordinate with Oregon Dept. of Fish and Wildlife and the Oregon Dept. of State Lands for the appropriate permits or construction criteria needed for the installation and operation of the measuring device.
  - c. 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 point of diversion.
  - d. The water user shall maintain the meters or measuring devices in good working order.
  - e. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

6. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screen and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
7. The former places of use of the transferred rights shall no longer receive water under the rights.
8. The approved changes shall be completed and full beneficial use of the water shall be made 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 changes and full beneficial use of the water.
9. After satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 14 day of January 2014.

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

Mailing Date: JAN 22 2014