



4. On July 13, 2017, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12603 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on July 18, 2017, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

5. The right to be transferred is as follows:

**Certificate:** 47111 in the name of M.H. GILLESPIE (confirmed by Wallowa River Decree)

**Use:** IRRIGATION OF 18.0 ACRES AND LIVESTOCK

**Priority Date:** 1881

**Limit/Duty:** The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially use for said purposes, and shall not exceed 1.5 acre feet per acre during any period of 30 days prior to July 31<sup>st</sup> of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season.

**Source:** LOSTINE RIVER AKA SOUTH FORK WALLOWA RIVER, tributary to the WALLOWA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	22	NW NE	830 FEET SOUTH AND 2700 FEET EAST FROM THE NW CORNER OF SECTION 22

**Authorized Place of Use:**

IRRIGATION AND LIVESTOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	15	NW NE	18.0

6. Transfer Application T-12603 proposes an additional point of diversion approximately 485 feet downstream located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	22	NE NW	400 FEET SOUTH AND 2470 FEET EAST FROM THE NW CORNER OF SECTION 22

7. The Oregon Department of Fish and Wildlife 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 currently equipped with an appropriate fish screen.

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

8. 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.

9. A diversion structure and ditch 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-12603.

10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.

### **Conclusions of Law**

The additional point of diversion proposed in Transfer Application T-12603 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

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

1. The additional point of diversion proposed in Transfer Application T-12603 is 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 47111 and any related decree.
3. Water right Certificate 47111 is cancelled.
4. The quantity of water diverted at the additional point of diversion, together with that diverted at the original point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
5. Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.
6. Water use measurement conditions:
  - a. **Before water use may begin** under this order, the water user shall install a suitable measuring device, at each point of diversion (new and existing).
  - b. The water user shall maintain the measuring devices in good working order.
  - c. The water user shall allow the Watermaster access to the measuring devices; provided however, the measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
7. The water user shall operate and maintain an approved fish screen at the new point of diversion. If Oregon Department of Fish and Wildlife (ODFW) determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.
8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. 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.

9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 28 day of August 2017.

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

Mailing date: SEP 01 2017