BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11104, Coos County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE

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

FRED BUSSMANN 86882 LOWER FOURMILE LANE BANDON, OR 97411

Findings of Fact

Background

1. On July 6, 2010, FRED BUSSMANN filed an application to change the place of use under Certificate 64844. The Department assigned the application number T-11104.

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

Certificate: 64844 in the name of FRED BUSSMANN (perfected under Permit

S-49682)

Use: IRRIGATION of 3.0 ACRES

Priority Date: JANUARY 6, 1986

Rate: 0.02 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 a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet per acre for each acre irrigated during

the irrigation season of each year.

Source: FOURMILE CREEK, tributary to the PACIFIC OCEAN

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 Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
30 S	15 W	WM	2	NE SE	3790 FEET SOUTH AND 140 FEET WEST FROM THE NE CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	
30 S	15 W	WM	2	SE NE	3.0	

3. Transfer Application T-11104 proposes to change the place of use of the right within Section 2:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	
30 S	15 W	WM	2	SE NE	3.0	

- 4. Notice of the application for transfer was published on July 13, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 5. On August 18, 2010, the Department mailed a copy of the Preliminary Determination proposing to approve Transfer Application T-11104 to the applicant. The Preliminary Determination cover letter set forth a deadline of September 17, 2010, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and submitted documentation regarding ownership of the land involved in the transfer. The applicant requested the Department place Transfer Application T-11104 on administrative hold for 90 days.
- 6. On October 25, 2010, an Affidavit Consenting to Proposed Water Right Transfer was received from Robin K. Bussmann, demonstrating the applicant is authorized to pursue the transfer.
- 7. On November 1, 2010, the applicant submitted an amended map clarifying the acreage to be transferred.

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 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-11104.
- 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.

Determination and Proposed Action

The change in change in place of use proposed in Transfer Application T-11104 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-11104 is approved, the final order will include the following:

- 1. The change in place of use proposed in Transfer Application T-11104 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 64844 and any related decree.
- 3. Water right certificate 64844 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
- 4. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
- 5. The Director may require the water user to install a totalizing flow meter or other suitable measuring devices at each point of diversion. If the Director notifies the water user to install totalizing flow meters or other measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices.
- 6. The former place of use of the transferred right shall no longer receive water under the right.
- 7. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. 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. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this ____ day of November, 2010.

Dwight Mench for PHILLIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by Teri Hranac. If you have questions about the information in this document, you may reach me at 503-986-0881 or Teri.K.Hranac@wrd.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.