

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11074, Crook County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN POINTS OF
	)	APPROPRIATION

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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.

Applicants

FRITZ G. AND DONNA L. DOBIN
15630 SE TEN EYCK ROAD
SANDY OR 97055

Findings of Fact

Background

1. On May 11, 2010, FRITZ G. AND DONNA L. DOBIN filed an application to change the points of appropriation under Certificate 84484. The Department assigned the application number T-11074.

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

Certificate: 84484 in the name of RIVERS BEND DEVELOPMENT LLC (perfected under Permit G-11684)

Use: IRRIGATION of 2.5 ACRES

Priority Date: MARCH 24, 1992

Rate: 0.03 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, 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.

Period of Use: FEBRUARY 1 THROUGH DECEMBER 31

Source: TWO WELLS within the DRY CREEK BASIN

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.
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Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	16 E	WM	12	SE SW	147 FEET NORTH AND 581 FEET WEST FROM THE S¼ CORNER OF SECTION 12
16 S	16 E	WM	12	SE SW	178 FEET NORTH AND 510 FEET WEST FROM THE S¼ CORNER OF SECTION 12

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Lot	Acres
16 S	16 E	WM	12	SE SW	8	2.5

3. Transfer Application T-11074 proposes to move the authorized points of appropriation northwest approximately 1,075 feet from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Lot	Measured Distances
16 S	16 E	WM	12	SE SW	8	1169 FEET NORTH AND 897 FEET WEST OF THE S¼ CORNER OF SECTION 12

4. Notice of the application for transfer was published on May 25, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On October 28, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11074. The draft Preliminary Determination cover letter set forth a deadline of November 30, 2010, for the applicants to respond. The applicants requested the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate the applicants are authorized to pursue the transfer.

Transfer Review Criteria (OAR 690-380-4010)

6. Water right Certificate 84484 was issued within the last five years on July 28, 2008. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
7. 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-11074.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

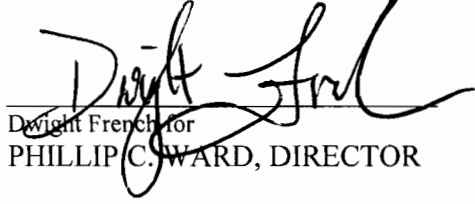
The change in points of appropriation proposed in Transfer Application T-11074 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11074 is approved, the final order will include the following:

- 1. The change in points of appropriation proposed in Transfer Application T-11074 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 84484 and any related decree.*
- 3. Water right certificate 84884 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer*
- 4. The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.*
- 5. 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 point of appropriation.*
 - b. The water user shall maintain the meter or measuring device 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.*
- 6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 7. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this right, then the use of water from the wells shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to joint develop plans to mitigate interference.*
- 8. The former place of use of the transferred right shall no longer receive water under the right.*
- 9. The approved changes 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 changes and full beneficial use of the water.*

10. *When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 3 day of November, 2010.


Dwight French 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@wrд.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.