

diversion of not to exceed 4.0 ACRE FEET PER ACRE for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir constructed under Permit R-1130.

Source: HORSE HEAVEN CREEK AND A RESERVOIR, CONSTRUCTED UNDER PERMIT R-1130, tributary to the CROOKED RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	19 E	WM	16	NW NE	POD 1 (RESERVOIR DAM): 450 FEET SOUTH AND 3660 FEET EAST FROM THE NW CORNER OF SECTION 16
16 S	19 E	WM	17	SE NE	POD 2: 2340 FEET SOUTH AND 230 FEET WEST FROM THE NE CORNER OF SECTION 17
16 S	19 E	WM	19	NE NE	POD 3: 430 FEET SOUTH AND 1220 FEET WEST FROM THE NE CORNER OF SECTION 19

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	18 E	WM	24	NW NE	9.8
16 S	18 E	WM	24	NE NW	13.3
16 S	18 E	WM	24	NW NW	12.5
16 S	19 E	WM	20	NE NW	6.5

4. Transfer Application T-11123 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	19 E	WM	19	SW NE	9.9
16 S	19 E	WM	19	SE NE	2.7
16 S	19 E	WM	19	NE SE	0.6
16 S	19 E	WM	19	NW SE	2.0
16 S	19 E	WM	19	SW SE	2.6
16 S	19 E	WM	19	SE SE	18.1
16 S	19 E	WM	30	NE NE	5.1
16 S	19 E	WM	30	NW NE	1.1

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

Certificate: 86199 in the name of NEAL AND ANNA DOW (perfected under Permit S-41174)

Use: SUPPLEMENTAL IRRIGATION of 4.8 ACRES

Priority Date: DECEMBER 8, 1976

Rate: 6.7 ACRE FEET

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 not to exceed 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A RESERVOIR, tributary to the CROOKED RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	19 E	WM	16	NW NE	POD 1 (RESERVOIR DAM): 450 FEET SOUTH AND 3660 FEET EAST FROM THE NW CORNER OF SECTION 16
16 S	19 E	WM	17	SE NE	POD 2: 2340 FEET SOUTH AND 230 FEET WEST FROM THE NE CORNER OF SECTION 17
16 S	19 E	WM	19	NE NE	POD 3: 430 FEET SOUTH AND 1220 FEET WEST FROM THE NE CORNER OF SECTION 19

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	19 E	WM	17	NE SW	3.2
16 S	19 E	WM	17	NW SE	1.6

6. Transfer Application T-11123 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	19 E	WM	19	NE NE	0.4
16 S	19 E	WM	19	SW NE	2.5
16 S	19 E	WM	19	SE NE	1.9

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

Certificate: 86201 in the name of NEAL AND ANNA DOW (perfected under Permit E-235)

Use: IRRIGATION of 4.8 ACRES

Priority Date: JANUARY 18, 1915

Rate: 0.06 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 per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

Source: HORSE HEAVEN CREEK, tributary to the CROOKED RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	19 E	WM	17	SE NE	2340 FEET SOUTH AND 230 FEET WEST FROM THE NE CORNER OF SECTION 17

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	19 E	WM	17	NE SW	3.2
16 S	19 E	WM	17	NW SE	1.6

8. Transfer Application T-11123 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	19 E	WM	19	NE NE	0.4
16 S	19 E	WM	19	SW NE	2.5
16 S	19 E	WM	19	SE NE	1.9

9. The transfer application is in the name of Neal and Anna Dow. Anna Dow's signature was missing from the transfer application. On November 9, 2010 the Department received a copy of Mrs. Dow's death certificate.
10. The transfer application map shows POD 1's distance of 3660 feet East bearing from the NE corner of Section 16 instead of the NW corner of Section 16, T. 16 S, R. 19 E, as indicated in the application and on certificates 86198 and 86199. The bearing marker needs to be corrected. On November 15, 2010 the Department received the corrected application maps indicating the corrected distance and bearing of POD 1.
11. Notice of the application for transfer was published on August 31, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
12. On October 11, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11123 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 12, 2010, 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.

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

13. 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 rights are subject to forfeiture under ORS 540.610.
14. 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-11123.
15. The proposed change would not result in enlargement of the rights, provided the rate and quantity of water being diverted can be controlled and measured.
16. The proposed change would not result in injury to other water rights.


Determination and Proposed Action

The change in place of use proposed in Transfer Application T-11123 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-11123 is approved, the final order will include the following:

- 1. The change in place of use proposed in Transfer Application T-11123 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 Certificates 86198, 86199 and 86201, and any related decree.*
- 3. Water right certificates 86198, 86199, and 86201 are cancelled. New certificates will be issued describing the portions of the rights not affected by this transfer.*
- 4. The former place of use of the transferred rights shall no longer receive water under the rights.*
- 5. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.*
- 6. When required by the Department, the water user shall install, maintain and operate headgates to control and regulate the quantity of water diverted. The type and plans of the headgates must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*
- 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, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 30 day of November 2010.



Dwight French for
PHILLIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Dorothy Pedersen at 503-986-0890 or Dorothy.I.Pedersen@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.