

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

In the Matter of Transfer Application) PRELIMINARY DETERMINATION
T-10937, Umatilla County) PROPOSING APPROVAL OF A
) CHANGE IN POINT 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.

Applicant

JOSH and SANDRA BRAY
70056 WAGON TRAIL RD
ECHO, OR 97826

Findings of Fact

Background

1. On August 3, 2009, Josh and Sandra Bray filed an application to change the point of appropriation under Certificate 75563. The Department assigned the application number T-10937.
2. The right to be transferred is as follows:
Certificate: 75563 in the name of ALAN M. and RUTH G. INSKO (perfected under Permit G-5470)
Use: IRRIGATION of 9.5 ACRES and SUPPLEMENTAL IRRIGATION OF 3.5 ACRES
Priority Date: November 18, 1974
Rate: 0.16 CUBIC FOOT PER SECOND (cfs)
Limit/Duty: ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated during the irrigation season
Source: JACOB’S WELL within the McKAY CREEK BASIN
Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Lot	Measured Distances
1 S	32 E	WM	1	SE SE	16	440 FEET NORTH AND 1200 FEET WEST FROM THE SE CORNER OF SECTION 1

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 Place of Use:

IRRIGATION (IR)						
Twp	Rng	Mer	Sec	Q - Q	Lot	Acres
1 S	32 E	WM	1	SE SE	16	9.5

SUPPLEMENTAL IRRIGATION (IS)						
Twp	Rng	Mer	Sec	Q - Q	Lot	Acres
1 S	32 E	WM	1	SE SE	16	3.5

3. Transfer Application T-10937 proposes to change the point of appropriation for the above described lands approximately 410 feet east from the authorized well to:

Twp	Rng	Mer	Sec	Q - Q	Lot	Measured Distances
1 S	32 E	WM	1	SE SE	16	400 FEET NORTH AND 800 FEET WEST FROM THE SE CORNER OF SECTION 1

4. Notice of the application for transfer was published on August 18, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. The Department has determined that the proposed construction of the new well will likely develop the same source of water as the authorized existing Jacob's Well (UMAT 43/UMAT 45 *extended casing*). The Department recommends the transfer be conditioned to require the proposed well to be cased and sealed to a minimum depth of 225 feet below land surface to ensure that the new well develops the same water source.
6. On October 20, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10937 to the applicant. The draft Preliminary Determination set forth a deadline of November 20, 2010, for the applicant to respond. On November 23, 2010, the applicant submitted a letter requesting the Department to 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)

7. Water has been used within the last five years prior to the submittal of Transfer Application T-10937 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.
8. A well, pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-10937.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in point of appropriation in Transfer Application T-10937 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 application T-10937 is approved, the final order will include the following:

- 1. The change in point of appropriation proposed in application T-10937 is approved. 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 75563 and any related decree.*
- 2. Water right certificate 75563 is cancelled.*
- 3. The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
- 4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation (UMAT 43/ UMAT 45- extended casing). The new proposed well shall be cased and sealed to a minimum depth of 225 feet below land surface.*
- 5. 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 the new point of appropriation. The water user shall maintain the meter or measuring device in good working order. The water user shall allow the Watermaster access to the meter; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
- 6. 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.*
- 7. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 6 day of December 2010.



Dwight French for
PHILLIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by Ken Dowden. If you should have questions about the information in this document, you may reach me at (541) 278-5456 or Ken.D.Dowden@wrdd.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.