

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.

Source: A WELL within the CHRISTMAS VALLEY BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	18 E	WM	35	SE SW	WELL 1: 1250 FEET NORTH AND 1320 FEET EAST FROM THE SW CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	18 E	WM	35	NE SW	33.6
24 S	18 E	WM	35	SE SW	19.4

- Certificate 80220 lists the well as being within Christmas Valley Basin. It is actually within Peters Creek Basin.
- Transfer Application T-11037 proposes to move the authorized point of appropriation approximately 2.69 miles southwest from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	18 E	WM	9	NW SW	WELL #L47493: 20 FEET SOUTH AND 1310 FEET EAST FROM THE W¼ CORNER OF SECTION 9

- Transfer Application T-11037 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	18 E	WM	9	NE SW	31.2
25 S	18 E	WM	9	NW SW	21.8

- The portion of the second right to be transferred is as follows

Certificate: 80221 in the name of HAROLD A. BROWN (perfected under Permit G-9974)

Use: IRRIGATION of 71.8 ACRES

Priority Date: JUNE 9, 1981

Rate: 0.9 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.

Source: A WELL within the CHRISTMAS VALLEY BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	18 E	WM	35	NW NW	WELL 2: 1200 FEET SOUTH AND 1250 FEET EAST FROM THE NW CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	18 E	WM	35	NE NW	33.6
24 S	18 E	WM	35	NW NW	2.4
24 S	18 E	WM	35	SW NW	2.4
24 S	18 E	WM	35	SE NW	33.4

8. Certificate 80221 lists the well as being within Christmas Valley Basin. It is actually within Peters Creek Basin.
9. Transfer Application T-11037 proposes to move the authorized point of appropriation approximately 3.06 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	18 E	WM	9	NW SW	WELL #L47493: 20 FEET SOUTH AND 1310 FEET EAST FROM THE W ¹ / ₄ CORNER OF SECTION 9

10. Transfer Application T-11037 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	18 E	WM	9	SW NW	31.2
25 S	18 E	WM	9	SE NW	31.2
25 S	18 E	WM	9	NW SW	9.4

11. The above rights are currently modified under the provisions of a Final Order approving Temporary Transfer T-10604, recorded in Special Order Volume 75, pages 111-114, which is set to expire at the end of the 2012 irrigation season. As noted in Finding of Fact #2, the applicant has requested that this order be cancelled upon issuance of a Final Order approving T-11037, effectively terminating T-10604 prior to its expiration date.
12. The Department has determined that additional measurement conditions are required to ensure the proposed change in point of appropriation will not result in injury to surrounding water rights.
13. Notice of the application for transfer was published on March 30, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
14. On November 30, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11037 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 30, 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)

15. Water has been used within the last five according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
16. A pump, pipeline, and sprinkler system 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-11037.
17. The proposed change would not result in enlargement of the rights.
18. The proposed change, as conditioned below, would not result in injury to other water rights.

Determination and Proposed Action


The change in point of appropriation and change in place of use proposed in Transfer Application T-11037 appear 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-11037 is approved, the final order will include the following:

1. *The change in point of appropriation and change in place of use proposed in Transfer Application T-11037 are approved.*
2. *Temporary Transfer T-10604 is terminated and the Final Order recorded in Special Order Volume 75, pages 111-114 is of no further force and effect.*
3. *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 80220 and 80221 and any related decree.*
4. *Water right certificates 80220 and 80221 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
5. *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.*
6. *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 meters or measuring devices in good working order.*
- c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
7. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
8. *The former place of use of the transferred portions of the rights described in Certificates 80220 and 80221 shall no longer receive water under the rights.*
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 changes is received, new certificates confirming the portions of the rights transferred will be issued.*

Dated at Salem, Oregon this 12 day of January 2011.


Dwight French for
PHILLIP C. WARD, DIRECTOR

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