

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11018, 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

VARDAN and MEGAN RIGBY
66741 E. BIRCH CREEK RD.
PILOT ROCK, OR. 97868

Findings of Fact

Background

1. On February 12, 2010, Vardan and Megan Rigby filed an application to change the point of appropriation under a portion of Certificate 83663. The Department assigned the application number T-11018.
2. The portion of the right to be transferred is as follows:
Certificate: 83663 in the name of ARTHUR J. FALK (perfected under Permit G-13998)
Use: IRRIGATION of 4.0 ACRES
Priority Date: APRIL 17, 2000
Rate: 0.037 CUBIC FOOT PER SECOND (cfs)
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 EAST BIRCH 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 Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
1 S	32 E	WM	21	SW SW	250 FEET NORTH AND 650 FEET EAST FROM SW CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
1 S	32 E	WM	21	SW SW	3.4
1 S	32 E	WM	28	NW NW	0.6

- Transfer Application T-11018 proposes to change the point of appropriation for the above described lands northwest approximately 360 feet to:

Proposed Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
1 S	32 E	WM	21	SW SW	450 FEET NORTH AND 350 FEET EAST FROM SW CORNER OF SECTION 21

- Notice of the application for transfer was published on February 23, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On December 2, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11018 to the applicant. The draft Preliminary Determination set forth a deadline of January 3, 2011 for the applicant to respond. On January 6, 2011, the applicant submitted a response 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)

- Water has been used within the last five years prior to the submittal of Transfer Application T-11018, 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.
- A well, 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-11018.
- The Department has determined that the proposed point of appropriation (UMAT 56094), will develop the same source of water as the authorized existing well (UMAT 102). The existing well produces water from a confined Columbia River basalt group. The proposed new well shall only appropriate ground water from same basalt ground water reservoir consistent with OAR 690-380-2110 (2).
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.

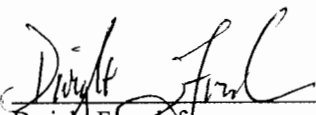
Determination and Proposed Action

The change in point of appropriation proposed in Transfer Application T-11018 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-11018 is approved, the final order will include the following:

- 1. The change in point of appropriation proposed in application T-11018 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 83663 and any related decree.*
- 3. Water right Certificate 83663 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 point of appropriation.*
- 5. Water shall be acquired from the same aquifer (Columbia River Basalt) as the original point of appropriation (UMAT 102).*
- 6. The Director may require the water user to install a totalizing flow meter or other suitable measuring devices at each point of appropriation. 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.*
- 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 20 day of January 2011.


Dwight French for
PHILLIP C. WARD, DIRECTOR

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

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