

be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

Source: UMATILLA RIVER and McKAY RESERVOIR, constructed under Application Permit R-584, tributary of the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	- not specified

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	Type of change	Acres
2 N	30 E	WM	1	SW SE	POU & POD	4.1
2 N	30 E	WM	1	SW SE	POD only	2.0
2 N	30 E	WM	12	NE NE	POD only	11.1
2 N	30 E	WM	12	NW NE	POD only	8.9
2 N	30 E	WM	12	SE NE	POD only	0.1

- Certificate 80564 does not describe the location of the point of diversion with coordinates and measured distances. However, information is available from Certificate 83483, which together with Certificate 80564, describes the water use perfected under Permit S-16393 from the Umatilla River indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	1330 FEET SOUTH AND 610 FEET WEST FROM NE CORNER OF SECTION 12

- Transfer Application T-10948 proposes to change the place of use for the 4.1 acres described above to:

Proposed Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
2 N	30 E	WM	1	SW SE	0.5
2 N	30 E	WM	12	NE NE	0.3
2 N	30 E	WM	12	NW NE	3.3

- Transfer application T-10948 also proposes to change the point of diversion for the entire water right described above downstream approximately 2400 feet to:

Proposed Place of Use:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	NW NE	320 FEET SOUTH AND 2310 FEET WEST FROM NE CORNER OF SECTION 12

- The second right to be transferred is as follows:

Certificate: 83483 in the name of KENNETH E. GUSTAFSON (perfected under Permit S-16393)

Use: IRRIGATION 5.4 ACRES

Priority Date: JULY 3, 1945

Rate: 0.135 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-FORTIETH 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 4.5 ACRE-FEET for each acre irrigated during the irrigation season of each year. The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

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Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	1330 FEET SOUTH AND 610 FEET WEST FROM NE CORNER OF SECTION 12

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	GLot	Acres
2 N	30 E	WM	12	NE NE	--	1.0
2 N	30 E	WM	12	SE NE	--	2.6
2 N	31 E	WM	7	NW NW	1	0.1
2 N	31 E	WM	7	SW NW	2	1.7

- Transfer application T-10948 proposes to change the point of diversion for the above described water right downstream approximately 2400 feet to:

Proposed Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	NW NE	320 FEET SOUTH AND 2310 FEET WEST FROM NE CORNER OF SECTION 12

- Notice of the application for transfer was published on September 8, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.
- On December 9, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10948 to the agent on behalf of the applicant. The draft Preliminary Determination set forth a deadline of January 10, 2011, for the applicant to respond. The agent, on behalf of 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)]

11. Water has been used within the last five-year period prior to submittal of the transfer application 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.
12. 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-10948.
13. The proposed changes would not result in enlargement of the rights.
14. The proposed changes would not result in injury to other water rights.

Determination and Proposed Action

The changes in points of diversion and place of use proposed in Transfer Application T-10948 appear 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.

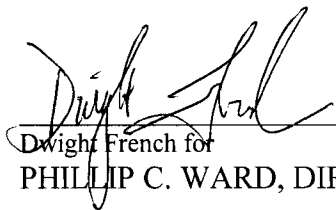
If application T-10948 is approved, the final order will include the following:

1. *The changes in points of diversion and place of use proposed in application T-10948 are 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 80564 and 83483 and any related decree.*
3. *Water right Certificates 80564 and 83483 are cancelled.*
4. *The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original points of diversion.*
5. *The former place of use of the transferred right shall no longer receive water under the right.*
6. *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 diversion. The water user shall maintain the meter or measuring device in good working order. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
7. *Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish*

and Wildlife's (ODFW) design and construction standards. **Prior** to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. **Prior** to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

8. 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.
9. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 20 day of January 2011.


Dwight French for
PHILIP 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@wrdd.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.