

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11161, Marion 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

BARBARA EASTERLING
24345 KLUPENGER ROAD NE
AURORA OR 97002

Findings of Fact

Background

1. On December 6, 2010, BARBARA EASTERLING filed an application to change the point of appropriation under Certificate 38261. The Department assigned the application number T-11161.
2. The right to be transferred is as follows:

Certificate:	38261 in the name of PAUL H. DAILY (perfected under Permit G-3293)
Use:	IRRIGATION OF 75.5 ACRES
Priority Date:	MAY 18, 1966
Rate:	0.94 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source:	A WELL within the WILLAMETTE RIVER 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
3 S	1 W	WM	33	NE NE	870 FEET SOUTH AND 70 FEET WEST FROM THE NE CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	1 W	WM	33	NE NE	38.5
3 S	1 W	WM	33	NW NE	37.0

3. Transfer Application T-11161 proposes to move the authorized point of appropriation approximately between 50 and 850 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	1 W	WM	33	NE NE	WELL 3 - 870 FEET SOUTH AND 120 FEET WEST FROM THE NE CORNER OF SECTION 33
3 S	1 W	WM	33	NE NE	WELL 4 - 20 FEET SOUTH AND 40 FEET WEST FROM THE NE CORNER OF SECTION 33

4. Notice of the application for transfer was published on December 14, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On January 31, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11161 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 2, 2011, for the applicant to respond. The applicant's agent 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)

6. 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 right is subject to forfeiture under ORS 540.610.
7. A 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-11161.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

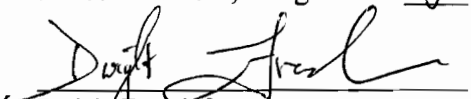
Determination and Proposed Action

The change in point of appropriation proposed in Transfer Application T-11161 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 Transfer Application T-11161 is approved, the final order will include the following:

- 1. The change in point of appropriation proposed in Transfer Application T-11161 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 38261 and any related decree.*
- 3. Water right certificate 38261 is cancelled.*
- 4. The quantity of water diverted at the new points of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.*
- 5. 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.*
- 6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 7. The approved change(s) 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(s) 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 8 day of February 2011.


Dwight French for
PHILLIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by Kelly Starnes. If you have questions about the information in this document, you may reach me at 503-986-0886 or Patrick.K.Starnes@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.