

6. Certificate 86121 was determined to contain a scrivener error that erroneously described the place of use. On March 17, 2010, Certificate 86121 was cancelled by superseding Certificate 86137, which correctly described the place of use.
7. On November 3, 2010, the applicant provided revised transfer maps in support of T-10732 that correctly described the From lands.
8. The right to be transferred is as follows:

Certificate: 86137 in the name of Dorothy Livingston Sims (confirmed by Crooked River decree)
Use: IRRIGATION of 34.2 ACRES
Priority Date: 1903
Rate: 0.43 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.43 cubic foot per second (cfs), the total quantity being limited to four (4.0) acre feet per acre during each year.
Source: CROOKED RIVER, tributary to the DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	14 E	WM	20	SE SE	270 FEET NORTH AND 190 FEET WEST FROM THE SE CORNER OF SECTION 20

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	14 E	WM	28	NE NW	7.1
14 S	14 E	WM	28	NW NW	22.1
14 S	14 E	WM	28	SW NW	5.0

9. Transfer Application T-10732 proposes an additional point of diversion, Lowline Ditch 47, to be located in an irrigation canal that diverts from the Crooked River approximately 3 ½ miles upstream from the authorized point of diversion. The proposed additional point of diversion is located at:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	14 E	WM	23	NE SE	950 FEET SOUTH AND 1,060 FEET WEST FROM THE E¼ CORNER OF SECTION 23

10. Notice of the application for transfer was published on December 2, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
11. On March 11, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10732 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 11, 2011, for the applicant to respond. The applicant requested that the Department extend the completion date to allow

time to complete on-farm improvements and proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

12. The Department considers the request for additional time reasonable and has revised the completion date.
13. 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 currently equipped with an appropriate fish screening and/or by-pass device.

Transfer Review Criteria [OAR 690-380-4010(2)]

14. 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.
15. 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-10732.
16. The proposed change would not result in enlargement of the right.
17. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The additional point of diversion proposed in Transfer Application T-10732 appears 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 Transfer Application T-10732 is approved, the final order will include the following:

1. *The additional point of diversion proposed in Transfer Application T-10732 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 86137 and any related decree.*
3. *Water right certificate 86137 is cancelled.*
4. *The quantity of water diverted at the additional point of diversion, together with that diverted at the original point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.*
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 diversion.*
- b. The water user shall maintain the meter or measuring devices in good working order.*
- c. The water user shall allow the Watermaster access to the meter 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. *Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.*
7. *The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.*
8. *The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2015**. 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.*
9. *When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 13 day of April, 2011.


Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Dorothy Pedersen at (503) 986-0890 or Dorothy.I.Pedersen@wrds.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.

**Notice of Preliminary Determination for
Water Right Transfer T-10732**

T-10732 filed by THE DANIELS GROUP, 1111 MAIN ST, SUITE 700, VANCOUVER WA 98660 proposes an additional point of diversion under Certificate 86137. The right allows the use of 0.43 CUBIC FOOT PER SECOND (priority date 1903) from the CROOKED RIVER in Sec. 20, T 14 S, R 14 E, W.M. for IRRIGATION in Sec. 28. The applicant proposes an additional point of diversion approximately 3.5 miles upstream in Sec. 23, T 14 S, R 14 E, W.M. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 986-0883. The last date of newspaper publication is [DATE OF LAST PUBLICATION]. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.