

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

In the Matter of Transfer Application)
T-11170, Umatilla County)
)
) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF A
) CHANGE IN PLACE OF USE

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, 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

STANFIELD HUTTERIAN FARM
C/O HERB STAHL
36345 DESPAIN GULCH ROAD
STANFIELD, OR 97875

Findings of Fact

Background

1. On December 20, 2010, STANFIELD HUTTERIAN FARM filed an application to change the place of use under Certificates 80911, 86104, and 86214. The Department assigned the application number T-11170.
2. Certificate 86104 was superseded by Certificate 86127 on August 10, 2010.
3. The portion of the first right to be transferred is as follows:

Certificate: 80911 in the name of STANFIELD HUTTERIAN FARM (perfected under Permit S-37833)
Use: IRRIGATION of 93.0 ACRES
Priority Date: FEBRUARY 26, 1975
Rate: 1.24 CUBIC FEET 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 per acre for each acre irrigated during the irrigation season of each year.

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.

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	30 E	WM	9	SW NW	6.2
4 N	30 E	WM	9	NW SW	2.4
4 N	30 E	WM	15	SW NE	3.4
4 N	30 E	WM	15	SE NW	2.8
4 N	30 E	WM	15	NE SW	4.0
4 N	30 E	WM	15	NW SW	2.6
4 N	30 E	WM	15	SW SW	6.5
4 N	30 E	WM	15	SE SW	5.5
4 N	30 E	WM	15	NW SE	3.4
4 N	30 E	WM	15	SW SE	3.0
4 N	30 E	WM	15	SE SE	0.1
4 N	30 E	WM	21	NE NE	2.4
4 N	30 E	WM	21	SE NE	0.3
4 N	30 E	WM	21	SW NW	7.8
4 N	30 E	WM	21	NW SW	2.8
4 N	30 E	WM	21	SW SW	11.4
4 N	30 E	WM	21	SE SE	2.0
4 N	30 E	WM	22	NW NW	2.8
4 N	30 E	WM	22	NW SW	6.5
4 N	30 E	WM	22	SW SW	16.2
4 N	30 E	WM	22	SE SW	0.9

4. Transfer Application T-11170 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	30 E	WM	10	NE SE	33.2
4 N	30 E	WM	10	NW SE	19.4
4 N	30 E	WM	10	SW SE	6.6
4 N	30 E	WM	10	SE SE	33.8

5. The portion of the second right to be transferred is as follows:

Certificate: 86127 in the name of STANFIELD HUTTERIAN FARM (perfected under Permit S-37121)

Use: IRRIGATION of 42.1 ACRES

Priority Date: OCTOBER 3, 1973, DECEMBER 11, 1973

Rate: 0.7 CUBIC FOOT PER SECOND, being 0.15 for October 3, 1973, and 0.55 for December 22, 1973

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-SIXTIETH 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: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	30 E	WM	4	SE NW	5.2
4 N	30 E	WM	4	NE SW	3.1
4 N	30 E	WM	17	SW SW	1.5
4 N	30 E	WM	17	SE SW	2.8
4 N	30 E	WM	17	SW SE	8.6
4 N	30 E	WM	18	NE SE	1.9
4 N	30 E	WM	18	NW SE	15.9
4 N	30 E	WM	18	SW SE	1.9
4 N	30 E	WM	18	SE SE	0.6
4 N	30 E	WM	20	NW NE	0.6

6. Transfer Application T-11170 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	30 E	WM	10	NW SE	7.8
4 N	30 E	WM	17	NE NE	7.0
4 N	30 E	WM	17	NE SE	18.6
4 N	30 E	WM	17	NW SE	6.2
4 N	30 E	WM	17	SW SE	0.4
4 N	30 E	WM	17	SE SE	2.1

7. The portion of the third right to be transferred is as follows:

Certificate: 86214 in the name of HALE FARMS, LLC (perfected under Permit S-37121)

Use: IRRIGATION of 54.6 ACRES

Priority Date: OCTOBER 3, 1973 plus one minute; DECEMBER 11, 1973 plus one minute

Rate: 0.59 CUBIC FOOT PER SECOND being 0.47 for October 3, 1973 plus one minute and 0.12 for December 11, 1973 plus one minute

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-SIXTIETH 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.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	7	NE NE	10.5
3 N	30 E	WM	7	NW NE	13.9
3 N	30 E	WM	7	SW NE	10.2
3 N	30 E	WM	7	SE NE	15.5
3 N	30 E	WM	7	NE SE	1.3
3 N	30 E	WM	7	NW SE	3.2

8. Transfer Application T-11170 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	30 E	WM	10	NW SE	9.7
4 N	30 E	WM	10	SW SE	30.9
4 N	30 E	WM	5	SE SW	5.6
4 N	30 E	WM	5	SW SE	2.9
4 N	30 E	WM	8	NW NE	1.9
4 N	30 E	WM	8	NE NW	3.6

9. Notice of the application for transfer was published on December 28, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On March 9, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11170 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 8, 2011, 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(2)]

11. Evidence was submitted with the application indicating that water has been used within the last five years according to the terms and conditions of the right. Aerial photographs of the lands to which the right is appurtenant suggest that there has been an extended period of time

during which the right was not exercised. However, the information in the record is not sufficient to initiate cancellation proceedings under ORS 540.631.

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-11170.
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 change in place of use proposed in Transfer Application T-11170 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

If Transfer Application T-11170 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-11170 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 Certificates 80911, 86127, and 86214 and any related decree.*
3. *Water right certificates 80911, 86127, and 86124 are cancelled. New certificates will be issued describing the portions of the rights not affected by this transfer.*
4. *The former place of use of the transferred rights shall no longer receive water under the rights.*
5. *The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.*
6. *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.*
7. *When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 14 day of April, 2011.



Dwight French, Water Rights 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@wrд.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.