

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-10817, Marion County	)	PROPOSING APPROVAL OF
	)	CHANGES IN POINT OF DIVERSION
	)	AND 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**

PATRICIA SAVAGE SAULS  
TIMOTHY SAULS  
PO BOX 996  
MILL CITY, OR 97360

**Findings of Fact**

**Background**

1. On March 12, 2009, PATRICIA SAVAGE SAULS and TIMOTHY SAULS filed a transfer application for authorization of an historic point of diversion change under Certificate 31508. The Department assigned the application number T-10817.
2. On January 4, 2011, a Consent by Deeded Landowner was submitted by George and Sheryl Morreira, landowners of tax lot 500, to which the water right is appurtenant.
3. On March 8, 2011, the applicant amended the application to change the point of diversion and place of use.
4. The right to be transferred is as follows:

**Certificate:** 31508 in the name of ATHEL SAVAGE (perfected under Permit S-28570)  
**Use:** DOMESTIC, INCLUDING IRRIGATION OF NOT TO EXCEED  
1/2 ACRE LAWN AND GARDEN  
**Priority Date:** DECEMBER 7, 1962  
**Rate:** 0.01 CUBIC FOOT PER SECOND

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:** AN UNNAMED SPRING, tributary to the NORTH SANTIAM RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q
9 S	3 E	WM	28	SE NW

**Authorized Place of Use:**

DOMESTIC, INCLUDING ½ ACRE LAWN AND GARDEN				
Twp	Rng	Mer	Sec	Q-Q
9 S	3 E	WM	28	NW SW

5. Certificate 31508 does not describe the location of the authorized point of diversion; however, the applicant confirmed that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	3 E	WM	28	SE NW	3235 FEET NORTH AND 1975 FEET EAST FROM THE SW CORNER OF SECTION 28

6. Transfer Application T-10817 proposes to move the authorized point of diversion approximately 2230 feet downstream to the North Santiam River located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	3 E	WM	28	NW SW	1340 FEET NORTH AND 2265 FEET EAST FROM THE SW CORNER OF SECTION 28

7. Transfer Application T-10817 also proposes to change the place of use of the right to:

DOMESTIC, INCLUDING ½ ACRE LAWN AND GARDEN					
Twp	Rng	Mer	Sec	Q-Q	Tax Lots
9 S	3 E	WM	28	NW SW	900 & 1000

8. Notice of the application for transfer was published on March 24, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. Notice of the amended application for transfer was published on March 15, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On April 15, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10817 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of May 15, 2011, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
11. 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.

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

- 12. 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.
- 13. A 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-10817.
- 14. The proposed changes would not result in enlargement of the right.
- 15. The proposed changes would not result in injury to other water rights.

**Partial Cancellation of a Water Right**

- 16. On March 11, 2010, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from Patricia Sauls. The right to be cancelled is as follows:

**Certificate:** 31508 in the name of ATHEL SAVAGE (perfected under Permit S-28570)  
**Use:** DOMESTIC, OPERATION OF A CAFE  
**Priority Date:** DECEMBER 7, 1962  
**Source:** AN UNNAMED SPRING, tributary to the NORTH SANTIAM RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q
9 S	3 E	WM	28	SE NW

**Authorized Place of Use to be cancelled:**

DOMESTIC, OPERATION OF A CAFE				
Twp	Rng	Mer	Sec	Q-Q
9 S	3 E	WM	28	NW SW

- 17. The rate for the entire right is 0.01 cubic foot per second (CFS). The Department normally assigns 0.01 CFS for domestic use for one household including half an acre of lawn or garden. Therefore, no reduction in rate is necessary.

**Determination and Proposed Action**

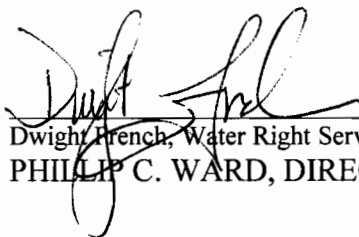
The change in point of diversion and change in place of use proposed in Transfer Application T-10817 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000, and the abandoned right should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved and the abandoned right will be cancelled.

*If Transfer Application T-10817 is approved, the final order will include the following:*

- 1. The change in point of diversion and change in place of use proposed in Transfer Application T-10817 are approved. The portion of the right that has been abandoned is cancelled.*
- 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 31508 and any related decree.*
- 3. Water right certificate 31508 is 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 point of diversion.*
- 5. The Director may require the water user to install a totalizing flow meter or other suitable measuring devices at each point of diversion. 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.*
- 6. 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.*
- 7. The former place of use of the transferred right shall no longer receive water under the right.*
- 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, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 27 day of May, 2011.



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

This Preliminary Determination was prepared by Teri Hranac. If you have questions about the information in this document, you may reach me at 503-986-0881 or [Teri.K.Hranac@wrds.state.or.us](mailto:Teri.K.Hranac@wrds.state.or.us).

Protests should be addressed to the attention of Transfers and Conservation Section, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

**Notice of Preliminary Determination for  
Water Right Transfer T-10817**

T-10817 filed by Timothy & Patricia Savage Sauls, PO Box 996, Mill City, OR 97360, proposes changes in point of diversion and place of use under Certificate 31508. The right allows the use of 0.01 cubic foot per second (priority date Dec. 7, 1962) from an unnamed spring, a tributary to the North Santiam River in Sec. 28, T 9 S, R 3 E, W.M. for domestic use, including irrigation of not to exceed ½ acre of lawn and garden within Sec. 28. The applicant proposes to move the point of diversion approximately 2230 feet downstream to the North Santiam River in Sec. 28, T 9 S, R 3 E, W.M. and to change the place of use within Sec. 28. 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.