

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

In the Matter of Transfer Application)
T-11227, Morrow County)
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)

PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF A
CHANGE IN PLACE OF USE, AND
PARTIAL DIMUNITION OF
CERTIFICATE 34280

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

TERRA POMA LAND, LLC
Attn: GLENN CHOWNING
PO BOX 862
HERMISTON, OR 97838

Agent

MOLLY REID
GSI WATER SOLUTIONS, INC.
1020 N CENTER PARKWAY, SUITE F
KENNEWICK, WA 99336

Findings of Fact

Background

1. On April 11, 2011, TERRA POMA LAND, LLC filed an application to change the place of use under Certificate 52082. The Department assigned the application number T-11227.
2. On May 24, 2011, the applicants amended the application to clarify the place of use to be transferred.
3. The portion of the first right to be transferred is as follows:

Certificate: 52082 in the name of PAUL T. & ESTHER J. JASA; ESTATE OF OSCAR PETERSON; FRED W., JUDY, & BARBARA ANDREWS; and PAUL C. and ANN R. CIMMIYOTTI (perfected under Permit S-36940)
Use: IRRIGATION of 46.9 ACRES
Priority Date: JUNE 29, 1973
Rate: 1.17 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, shall be limited to ONE-

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.

FORTIETH 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 4.5 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	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	120 FEET SOUTH AND 2980 FEET WEST FROM THE NE CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	26 E	WM	7	NW SE	9.0
4 N	26 E	WM	7	SW SE	2.1
4 N	26 E	WM	7	SE SE	1.5
4 N	26 E	WM	8	SW SW	10.5
4 N	26 E	WM	8	SE SW	2.9
4 N	26 E	WM	17	NE NW	1.5
4 N	26 E	WM	17	SW NW	1.0
4 N	26 E	WM	17	SE NW	3.4
4 N	26 E	WM	18	NE NE	7.8
4 N	26 E	WM	18	NW NE	4.0
4 N	26 E	WM	18	SE NE	3.2
Total					46.9

4. Application T-11227 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	27 E	WM	8	NW NW	22.4
3 N	27 E	WM	8	SW NW	24.5
Total					46.9

Partial Diminution of a Water Right

5. On April 11, 2011, an affidavit certifying that a portion of Certificate 34280 has been diminished from a right for primary irrigation to a right for supplemental irrigation was received from Glenn Chowning and Ken Vandewall. The right to be diminished is as follows:

Certificate: 34280 in the name of LEOTA NELL MARTIN (perfected under Permit G-1965)

Use: IRRIGATION of 125.0 ACRES

Priority Date: OCTOBER 2, 1961

Rate: 1.13 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, 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WELL NO. 2, tributary to the UMATILLA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	27 E	WM	8	NE NE	850 FEET SOUTH AND 660 FEET WEST FROM THE NE CORNER OF SECTION 8

Authorized Place of Use to be Diminished:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	27 E	WM	8	NE NW	29.5
3 N	27 E	WM	8	NW NW	33.0
3 N	27 E	WM	8	SW NW	33.0
3 N	27 E	WM	8	SE NW	29.5
Total					125.0

6. Notice of the application for transfer was published on April 19, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On May 26, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11227 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 26, 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)]

8. 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.
9. 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-11227.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.


Determination and Proposed Action

The change in place of use proposed in Transfer Application T-11227 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 and the right proposed to be diminished will be diminished to supplemental irrigation.

If Transfer Application T-11227 is approved, the final order will include the following:

- 1. The change in place of use proposed in application T-11227 is approved. The portion of Certificate 34280 proposed to be diminished is diminished.*
- 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 52082 and any related decree.*
- 3. Water right certificate 52082 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 4. Water right certificate 34280 is cancelled. A new certificate will be issued to confirm that portion of the right described by Certificate 34280 diminished by this order.*
- 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 former place of use of the transferred right shall no longer receive water under the right.*
- 7. The approved change 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 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 31 day of May 2011.



Dwight French, Water Right Services Administrator, for
PHILLIP 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.

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