

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11236, Lake County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACES OF USE

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

PERNOLL RANCH LLC
PO BOX 35
SUMMER LAKE, OR 97640

Findings of Fact

Background

1. On April 28, 2011, PERNOLL RANCH LLC filed an application to change the place of use under Certificates 30784, 38097, and 81497. The Department assigned the application number T-11236.
2. Temporary Transfer T-10983, entered January 29, 2010, at Special Order Volume 80, Pages 181-184, approved temporary changes in place of use for portions of Certificates 38097 and 81497 for five years, ending in the year 2014, or until terminated by order of the Department.

3. The first right to be transferred is as follows:

Certificate: 30784 in the name of TIM P. GUINEE (perfected under Permit G-1686)
Use: IRRIGATION OF 28.8 ACRES
Priority Date: SEPTEMBER 21, 1960
Rate: 0.36 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

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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3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the ANA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
29 S	16 E	WM	16	NE NE	SOUTH 5° WEST 1350 FEET, THENCE NORTH 45° WEST 236 FEET FROM THE NE CORNER OF SECTION 16

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	16 E	WM	16	NE NE	28.8

4. The final proof maps for the water rights described by Certificates 38097 and 81497 show the actual place of use of the right described by Certificate 30784 as:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	16 E	WM	9	SE SE	4.2
29 S	16 E	WM	16	NE NE	24.6

5. Transfer Application T-11236 proposes to change the place of use of the entire right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	16 E	WM	9	SE SE	1.0
29 S	16 E	WM	16	NE NE	22.6
29 S	16 E	WM	16	NW NE	5.2

6. The second right to be transferred is as follows:

Certificate: 38097 in the name of L. H. RANCH, INC. (perfected under Permit G-4263)

Use: IRRIGATION OF 9.5 ACRES

Priority Date: JULY 30, 1968

Rate: 0.12 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 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the ANA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
29 S	16 E	WM	16	NE NE	1140 FEET SOUTH AND 5250 FEET EAST FROM THE NW CORNER OF SECTION 16

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	16 E	WM	9	SW SE	2.1
29 S	16 E	WM	9	SE SE	7.4

7. Transfer Application T-11236 proposes to change the place of use of the entire right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	16 E	WM	9	SW SE	1.1
29 S	16 E	WM	9	SE SE	0.8
29 S	16 E	WM	16	NE NE	0.2
29 S	16 E	WM	16	NW NE	7.4

8. The third right to be transferred is as follows:

Certificate: 81497 in the name of PERNOLL RANCH, LLC (perfected under Permit G-9786)

Use: IRRIGATION OF 20.3 ACRES

Priority Date: APRIL 21, 1982

Rate: 0.25 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, is 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: A WELL within the SILVER LAKE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
29 S	16 E	WM	16	NE NE	1140 FEET SOUTH AND 5250 FEET EAST FROM THE NW CORNER OF SECTION 16

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	16 E	WM	9	SW SE	16.7
29 S	16 E	WM	9	SE SE	0.2
29 S	16 E	WM	16	NE NE	3.4

9. Transfer Application T-11236 proposes to change the place of use of the entire right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	16 E	WM	9	SW SE	17.5
29 S	16 E	WM	9	SE SE	2.8

10. Temporary Transfer T-10983 must be terminated before Transfer Application T-11236 can be approved.
11. Notice of the application for transfer was published on May 3, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
12. On June 6, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11236 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 6, 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)

13. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
14. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights was present within the five-year period prior to submittal of Transfer Application T-11236.
15. The proposed change would not result in enlargement of the rights.
16. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

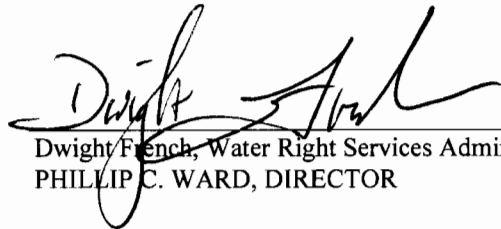
The change in places of use proposed in Transfer Application T-11236 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11236 is approved, the final order will include the following:

1. *Temporary Transfer T-10983 is terminated. The final order entered at Special Order Volume 80, pages 181-184 is of no further force or effect.*
2. *The change in places of use proposed in Transfer Application T-11236 is approved.*
3. *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 30784, 38097, and 81497, and any related decree.*
4. *Water right certificates 30784, 38097, and 81497 are cancelled.*

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 the point of appropriation.*
 - b. *The water user shall maintain the meter or measuring device in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device are located within a private structure, the Watermaster shall request access upon reasonable notice.*
6. *The former places of use of the transferred rights shall no longer receive water under the rights.*
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, new certificates confirming the rights transferred will be issued.*

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



Dwight French, Water Right Services Administrator, 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@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.