

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

In the Matter of Transfer Application) PRELIMINARY DETERMINATION
T-11218, Wallowa County) 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

ROYCE AND PATRICIA HORTON
68279 ALLEN CANYON LOOP
WALLOWA, OR 97885

Agent

BAGETT-GRIFFITY & BLACKMAN
2006 ADAMS AVE
LAGRANDE, OR 97850

Findings of Fact

Background

1. On March 31, 2011, ROYCE AND PATRICIA HORTON, filed an application to change the place of use under Certificate 65175. The Department assigned the application number T-11218.
2. The portion of the right to be transferred is as follows:

Certificate: 65175 in the name of ALLEN CANYON SPRINKLER ASSOCIATION
(perfected under Permit S-38052)

Use: SUPPLEMENTAL IRRIGATION of 22.0 ACRES

Priority Date: MAY 7, 1973

Rate: 0.51 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 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: LOSTINE RIVER, tributary to the WALLOWA RIVER

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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Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	27	NW SE	2870 FEET SOUTH AND 220 FEET EAST FROM THE N1/4 CORNER OF SECTION 27

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	5	NW SW	22.0

- Application T-11218 proposes to change the place of use of the right to lands with the same underlying primary water right:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	5	NW NW	22.0

- Notice of the application for transfer was published on April 5, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On November 9, 2011, the Department mailed a copy of the Draft Preliminary Determination proposing to approve Transfer Application T-11218 to the applicants. The Draft Preliminary Determination cover letter set forth a deadline of December 9, 2011, for the applicants to respond. The applicant’s agent 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.

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

- 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.
- A diversion structure and ditch 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-11218.
- The proposed change would not result in enlargement of the right.
- 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-11218 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-11218 is approved, the final order will include the following:

- 1. The change in place of use proposed in application T-11218 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 65175 and any related decree.*
- 3. Water right certificate 65175 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 4. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.*
- 5. The water user shall maintain the existing headgate 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, 2013**. 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 12 day of January 2012.


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

This Preliminary Determination was prepared by Carrie Matthews. If you have questions about the information in this document, you may reach me at 541-523-8224 x 36 or Carrie.R.Matthews@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.