

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

In the Matter of Transfer Application)
T-11350, Grant County)
)
) PRELIMINARY DETERMINATION
) 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

TED CLAUSEN
FERRIS CREEK RANCH
44011 HIGHWAY 26
DAYVILLE, OR 97825

Findings of Fact

Background

1. On February 8, 2012, TED CLAUSEN, FERRIS CREEK RANCH filed an application to change the point of diversion and to change the place of use under Certificate 83001. The Department assigned the application number T-11350.

2. On March 12, 2012, the applicant amended the application and submitted an amended map clarifying the proposed point of diversion.

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

Certificate: 83001 in the name of JERALD F. CLAUSEN (confirmed by John Day River Decree)
Use: IRRIGATION of 32.8 ACRES
Priority Date: 1889
Rate: 0.82 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed ONE-FORTIETH of one cubic foot per

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.

second per acre irrigated from April 1 to September 30; further limited to one acre-foot per acre per calendar month to July 1 and 3/4 acre-foot per acre thereafter; total five acre feet per acre per season, measured at the points of diversion.

Source: JOHN DAY RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
12 S	26 E	WM	35	SW NE	1010 FEET NORTH AND 550 FEET WEST FROM THE EAST 1/4 CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Change
12 S	26 E	WM	27	NE SW	2.7	POD/POU
12 S	26 E	WM	27	NE SW	9.8	POD
12 S	26 E	WM	27	NW SE	1.1	POD/POU
12 S	26 E	WM	27	NW SE	8.9	POD
12 S	26 E	WM	27	SW SE	0.5	POD/POU
12 S	26 E	WM	27	SW SE	9.8	POD
Total					32.8	

4. Transfer Application T-11350 proposes to move the authorized point of diversion approximately 1.6 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
12 S	26 E	WM	27	SW SE	1210 FEET NORTH AND 2740 FEET EAST FROM THE SW CONER OF SECTION 27

5. Transfer Application T-11350 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
12 S	26 E	WM	27	NE SW	10.0
12 S	26 E	WM	27	NW SE	9.0
12 S	26 E	WM	27	SW SE	13.8
Total					32.8

6. Notice of the application for transfer was published on February 21, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On March 26, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11350 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 26, 2012, 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.

8. 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)]

9. 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.
10. A diversion structure and ditch 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-11350.
11. The proposed changes would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

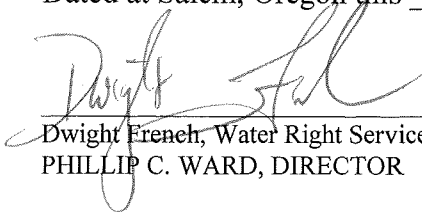
The change in point of diversion and change in place of use proposed in Transfer Application T-11350 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-11350 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-11350 are 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 83001 and any related decree.*
3. *Water right certificate 83001 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
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. *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 each point of diversion.*

- b. *The water user shall maintain the meters or measuring devices in good working order.*
- c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
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. *Full beneficial use of the water shall be made, consistent with the terms of this order, 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 changes and full beneficial use of the water.*
9. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 12 day of April, 2012.


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@wr.d.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.