



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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April 26, 2012

BUREAU OF LAND MANAGEMENT

Thomas E. Rasmussen
1301 SOUTH G ST
LAKEVIEW OR 97630

SUBJECT: Water Right Transfer Application T-10750

Please find enclosed the Revised Preliminary Determination indicating the Department intends to approve application T-10750. This document is an intermediate step in the approval process and water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department.

Consistent with our 2009 order withdrawing the original Preliminary Determination, a public notice is being published in the Department's weekly publication simultaneously with issuance of the Revised Preliminary Determination. The notice initiates a 30-day period in which any person may file either a protest opposing the decision proposed by the Department in the Revised Preliminary Determination or a standing statement supporting the Department's decision.

If no protest is filed, the Department will issue a Final Order consistent with the Revised Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0888 or Greg.L.Nelson@wr.d.state.or.us if I may be of assistance.

Sincerely,

Greg Nelson

Transfers and Conservation Section

cc: Brian M. Mayer, District 12 Watermaster
Dennis Glender
Rodney Callaghan, CWRE
Hart Lake Water Users Assoc.
Department of State Lands
Commenters – Cortney Duke

encs



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

In the Matter of Transfer Application)	REVISED PRELIMINARY
T-10750, Lake County)	DETERMINATION PROPOSING
)	APPROVAL OF A CHANGE IN POINT
)	OF DIVERSION AND RE-
)	DESCRIPTIONS OF WATER RIGHTS

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

BUREAU OF LAND MANAGEMENT
THOMAS E. RASMUSSEN
1301 SOUTH G ST
LAKEVIEW OR 97630

Findings of Fact

Background

1. On December 12, 2008, the United States Bureau of Land Management (BLM) filed an application to change the point of diversion under Certificates 9451, 22209, and 45409. The Department assigned the application number T-10750.
2. On March 24, 2007, the applicant submitted a revised map, identifying acreage for transfer.
3. On March 31, 2009, the applicant requested under OAR 690-380-3100(E) approval of the use of the scale 1"=2000' for the mapping. The request was approved.
4. On April 1, 2009, the applicant requested more time to complete beneficial use with the new point of diversion because of weather and lake levels. The reasoning for the extended time request is because the lake does not fill every year. The request for more time (until October 1, 2014) was approved.
5. The portion of the first right to be affected by the transfer is as follows:

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 revised preliminary determination.
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Certificate: 9451 in the name of LAKE COUNTY LAND & LIVESTOCK CO.
 (confirmed by Warner Lakes decree)
Use: Livestock and Irrigation of 3195.82 ACRES
Priority Date: 1892
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 prior to June 15th, and ONE-EIGHTIETH of a cubic foot per second per acre of land irrigation after June 15th, of each year, , and shall be further limited to a diversion of not to exceed 3 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: Hart Lake, tributary to the WARNER LAKES

Authorized Place of Use:

IRRIGATION AND STOCK WATER USE						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	24 E	WM	24	NE NW		20.00
35 S	24 E	WM	24	NW NW		10.00
35 S	24 E	WM	24	SW NW		40.00
35 S	24 E	WM	24	NW SW		28.14
35 S	24 E	WM	24	SW SW		23.80
35 S	24 E	WM	25	NW NW		31.17
35 S	24 E	WM	25	SW NW		39.94
35 S	24 E	WM	25	SE NW		14.29
35 S	24 E	WM	25	NE SW		33.30
35 S	24 E	WM	25	NW SW		33.00
35 S	24 E	WM	25	SW SW		39.90
35 S	24 E	WM	25	SE SW		33.30
35 S	24 E	WM	36	NE NW		33.30
35 S	24 E	WM	36	NW NW		40.00
35 S	24 E	WM	36	SW NW		40.00
35 S	24 E	WM	36	SE NW		33.30
35 S	24 E	WM	36	NE SW		33.30
35 S	24 E	WM	36	NW SW		40.00
35 S	24 E	WM	36	SW SW		40.00
35 S	24 E	WM	36	SE SW		33.30
35 S	25 E	WM	30	SW SW		39.57
35 S	25 E	WM	31	NE NW		13.17
35 S	25 E	WM	31	NW NW		40.00
35 S	25 E	WM	31	SW NW		40.00
35 S	25 E	WM	31	SE NW		5.08
35 S	25 E	WM	31	NE SW		19.55
35 S	25 E	WM	31	NW SW		40.00
35 S	25 E	WM	31	SW SW		39.00
35 S	25 E	WM	31	SE SW		35.00
36 S	24 E	WM	1	NE NW		32.74
36 S	24 E	WM	1	NW NW		36.65
36 S	24 E	WM	1	SW NW		24.00
36 S	24 E	WM	1	SE NW		35.27
36 S	24 E	WM	1	NE SW		35.35
36 S	24 E	WM	1	NW SW		34.00

IRRIGATION AND STOCK WATER USE						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
36 S	24 E	WM	1	SW SW		40.00
36 S	24 E	WM	1	SE SW		35.22
36 S	24 E	WM	12	NE NW		36.05
36 S	24 E	WM	12	NW NW		40.00
36 S	24 E	WM	12	SW NW		40.00
36 S	24 E	WM	12	SE NW		34.75
36 S	24 E	WM	12	NE SW		34.75
36 S	24 E	WM	12	SE SW		34.15
36 S	24 E	WM	13	NE NW		34.00
36 S	24 E	WM	13	SE NW		34.00
36 S	24 E	WM	13	NE SW		14.00
36 S	25 E	WM	6	NW NE		23.00
36 S	25 E	WM	6	SW NE		20.00
36 S	25 E	WM	6	NE NW		34.00
36 S	25 E	WM	6	NW NW		38.00
36 S	25 E	WM	6	SW NW		40.10
36 S	25 E	WM	6	SE NW		40.00
36 S	25 E	WM	6	NE SW		35.00
36 S	25 E	WM	6	NW SW		40.18
36 S	25 E	WM	6	SW SW		40.26
36 S	25 E	WM	6	SE SW		40.00
36 S	25 E	WM	6	NW SE		27.00
36 S	25 E	WM	6	SW SE		40.00
36 S	25 E	WM	6	SE SE		10.00
36 S	25 E	WM	7	NE NE		38.00
36 S	25 E	WM	7	NW NE		40.00
36 S	25 E	WM	7	SW NE		40.00
36 S	25 E	WM	7	SE NE		40.00
36 S	25 E	WM	7	NE NW		40.00
36 S	25 E	WM	7	NW NW		40.26
36 S	25 E	WM	7	SW NW		40.18
36 S	25 E	WM	7	SE NW		40.00
36 S	25 E	WM	7	NE SW		40.00
36 S	25 E	WM	7	NW SW		40.10
36 S	25 E	WM	7	SW SW		40.02
36 S	25 E	WM	7	SE SW		40.00
36 S	25 E	WM	7	NE SE		37.00
36 S	25 E	WM	7	NW SE		39.00
36 S	25 E	WM	7	SW SE		31.00
36 S	25 E	WM	7	SE SE		38.00
36 S	25 E	WM	8	NW NW		12.00
36 S	25 E	WM	8	SW NW		28.00
36 S	25 E	WM	18	NE NE		29.00
36 S	25 E	WM	18	NW NE		34.00
36 S	25 E	WM	18	SW NE		31.00
36 S	25 E	WM	18	SE NE		38.00
36 S	25 E	WM	18	NE NW		40.00
36 S	25 E	WM	18	NW NW		40.00
36 S	25 E	WM	18	SW NW		40.00
36 S	25 E	WM	18	SE NW		40.00
36 S	25 E	WM	18	NE SW		40.00
36 S	25 E	WM	18	NW SW		40.00

IRRIGATION AND STOCK WATER USE						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
36 S	25 E	WM	18	SW SW		37.08
36 S	25 E	WM	18	SE SW		40.00
36 S	25 E	WM	18	NE SE		37.00
36 S	25 E	WM	18	NW SE		37.00
36 S	25 E	WM	18	SW SE		41.30
36 S	25 E	WM	18	SE SE		26.00
36 S	25 E	WM	19	NW NE		22.00
36 S	25 E	WM	19	NE NW		6.00
TOTAL:						3,195.82

6. Certificate 9451 does not describe the irrigation season, however information is available in the Warner Lake Decree stating that the irrigation season is March 1st to October 1st of each year.
7. Certificate 9451 does not describe the location of the point of diversion, however information is available from the decree map indicating that the point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Other Information
36 S	25 E	WM	19	TRACT 4

8. Transfer Application T-10750 proposes to move the authorized point of diversion approximately 60 feet southeast to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
36 S	25 E	WM	18	SW SW	12	96 FEET NORTH AND 4528 FEET WEST FROM SOUTHEAST CORNER OF SECTION 18

9. Certificate 9451 contains a scrivener's error, being that the sum of water right acres listed for Tract 4 in the certificate equals 5,033.1 acres, rather than the 4993.1 acres stated in the opening paragraph of the certificate's text.
10. Certificate 9451 describes the authorized place of use for 35.35 acres in the Lot 4 (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 1, and 36.05 acres in Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Section 12, Township 36 South, Range 24 East, W. M, Lake County, Oregon.
 - a. The transfer application depicts the place of use under Certificate 9451 as being 35.25 acres in the Lot 4 (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 1, and 35.05 acres in Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Section 12, Township 36 South, Range 24 East, W.M.
 - b. It appears that the place of use depicted in the 1916 survey and the transfer map are the same area on the ground. Though the footprint is the same, use of current technology to measure the area results in a slightly different quantification of acreage. This leads the Department to conclude that the land to which the right has always been appurtenant should be re-described.
 - c. The following table lists the place of use as described in existing Certificate 9451 and a proposed re-description based on the above findings:

Original Description of Place of Use		Proposed Re-Description of Place of Use		
¼-¼	Acres	¼-¼	Acres	Current Tax Lot (additional information)
Lot 4 (NE¼ SW¼) Sec. 1	35.35	Lot 4 (NE¼ SW¼)	35.25	101
Lot 1 (NE¼ NW¼) Sec. 12	36.05	Lot 1 (NE¼ NW¼)	35.05	101
TOTAL:	71.40	TOTAL:	70.30	
Township 36 South, Range 24 East, W.M.				

11. The apparent 1.10 acre loss between the original description and the re-description does not represent a reduction in actual land area to which the water right is appurtenant, but is simply an adjustment of the water right record to more accurately reflect the reality on the ground. Future certificates issued for this portion of the water right will be based on this re-description.

12. The place of use description in Certificate 9451 does not include Government Lots, however, the true legal description of the land to which the water right is appurtenant is based on Government Lots. Therefore, the place of use of the transferred portion of the right will be re-described as follows:

IRRIGATION AND STOCK WATER USE						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	24 E	WM	24	NE NW	1	20.00
35 S	24 E	WM	24	NW NW		10.00
35 S	24 E	WM	24	SW NW	2	40.00
35 S	24 E	WM	24	NW SW	3	28.14
35 S	24 E	WM	24	SW SW	4	23.80
35 S	24 E	WM	25	NW NW	1	31.17
35 S	24 E	WM	25	SW NW	2	39.94
35 S	24 E	WM	25	SE NW	3	14.29
35 S	24 E	WM	25	NE SW	4	33.30
35 S	24 E	WM	25	NW SW		33.00
35 S	24 E	WM	25	SW SW		39.90
35 S	24 E	WM	25	SE SW	5	33.30
35 S	24 E	WM	36	NE NW	1	33.30
35 S	24 E	WM	36	NW NW		40.00
35 S	24 E	WM	36	SW NW		40.00
35 S	24 E	WM	36	SE NW	2	33.30
35 S	24 E	WM	36	NE SW	3	33.30
35 S	24 E	WM	36	NW SW		40.00
35 S	24 E	WM	36	SW SW		40.00
35 S	24 E	WM	36	SE SW	4	33.30
35 S	25 E	WM	30	NW SW		2.37
35 S	25 E	WM	30	SW SW	4	35.40
35 S	25 E	WM	30	SE SW		1.80
35 S	25 E	WM	31	NE NW	1	13.17
35 S	25 E	WM	31	NW NW	1	40.00
35 S	25 E	WM	31	SW NW	2	40.00
35 S	25 E	WM	31	SE NW	2	5.08
35 S	25 E	WM	31	NE SW	5	19.55

IRRIGATION AND STOCK WATER USE						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	25 E	WM	31	NW SW	3	40.00
35 S	25 E	WM	31	SW SW	4	39.00
35 S	25 E	WM	31	SE SW		35.00
36 S	24 E	WM	1	NE NW	1	32.74
36 S	24 E	WM	1	NW NW	2	36.65
36 S	24 E	WM	1	SW NW		24.00
36 S	24 E	WM	1	SE NW	3	35.27
36 S	24 E	WM	1	NE SW	4	35.25
36 S	24 E	WM	1	NW SW		34.00
36 S	24 E	WM	1	SW SW		40.00
36 S	24 E	WM	1	SE SW	5	35.22
36 S	24 E	WM	12	NE NW	1	35.05
36 S	24 E	WM	12	NW NW		40.00
36 S	24 E	WM	12	SW NW		40.00
36 S	24 E	WM	12	SE NW	2	34.75
36 S	24 E	WM	12	NE SW	3	34.75
36 S	24 E	WM	12	SE SW	4	34.15
36 S	24 E	WM	13	NE NW	1	34.00
36 S	24 E	WM	13	SE NW	4	34.00
36 S	24 E	WM	13	NE SW	5	14.00
36 S	25 E	WM	6	NW NE	8	23.00
36 S	25 E	WM	6	SW NE	7	20.00
36 S	25 E	WM	6	NE NW	9	34.00
36 S	25 E	WM	6	NW NW	10	38.00
36 S	25 E	WM	6	SW NW	11	40.10
36 S	25 E	WM	6	SE NW		40.00
36 S	25 E	WM	6	NE SW		35.00
36 S	25 E	WM	6	NW SW	12	40.18
36 S	25 E	WM	6	SW SW	13	40.26
36 S	25 E	WM	6	SE SW		40.00
36 S	25 E	WM	6	NW SE	3	1.20
36 S	25 E	WM	6	NW SE	6	25.80
36 S	25 E	WM	6	SW SE	4	11.40
36 S	25 E	WM	6	SW SE	5	28.60
36 S	25 E	WM	6	SE SE		10.00
36 S	25 E	WM	7	NE NE	1	30.70
36 S	25 E	WM	7	NE NE	8	7.30
36 S	25 E	WM	7	NW NE	8	38.50
36 S	25 E	WM	7	NW NE	1	1.50
36 S	25 E	WM	7	SW NE		40.00
36 S	25 E	WM	7	SE NE	2	21.30
36 S	25 E	WM	7	SE NE	7	18.70
36 S	25 E	WM	7	NE NW		40.00
36 S	25 E	WM	7	NW NW	9	40.26
36 S	25 E	WM	7	SW NW	10	40.18
36 S	25 E	WM	7	SE NW		40.00
36 S	25 E	WM	7	NE SW		40.00
36 S	25 E	WM	7	NW SW	11	40.10
36 S	25 E	WM	7	SW SW	12	40.02
36 S	25 E	WM	7	SE SW		40.00
36 S	25 E	WM	7	NE SE	3	11.20
36 S	25 E	WM	7	NE SE	6	25.80

IRRIGATION AND STOCK WATER USE						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
36 S	25 E	WM	7	NW SE		39.00
36 S	25 E	WM	7	SW SE		31.00
36 S	25 E	WM	7	SE SE	4	3.70
36 S	25 E	WM	7	SE SE	5	34.30
36 S	25 E	WM	8	NW NW		12.00
36 S	25 E	WM	8	SW NW		28.00
36 S	25 E	WM	18	NE NE	1	9.60
36 S	25 E	WM	18	NE NE	8	19.40
36 S	25 E	WM	18	NW NE		34.00
36 S	25 E	WM	18	SW NE		31.00
36 S	25 E	WM	18	SE NE	2	12.70
36 S	25 E	WM	18	SE NE	7	25.30
36 S	25 E	WM	18	NE NW		40.00
36 S	25 E	WM	18	NW NW	9	40.00
36 S	25 E	WM	18	SW NW	10	40.00
36 S	25 E	WM	18	SE NW		40.00
36 S	25 E	WM	18	NE SW		40.00
36 S	25 E	WM	18	NW SW	11	40.00
36 S	25 E	WM	18	SW SW	12	37.08
36 S	25 E	WM	18	SE SW		40.00
36 S	25 E	WM	18	NE SE	3	30.20
36 S	25 E	WM	18	NE SE	6	6.80
36 S	25 E	WM	18	NW SE		37.00
36 S	25 E	WM	18	SW SE	5	41.30
36 S	25 E	WM	18	SE SE	4	26.00
36 S	25 E	WM	19	NW NE	8	22.00
36 S	25 E	WM	19	NE NW	9	6.00
TOTAL:						3,194.72

13. The portion of the second right to be affected by the transfer is as follows:

Certificate: 22209 in the name of CON LYNCH (perfected under Permit S-20854)
Use: SUPPLEMENTAL IRRIGATION of 3,183.75 ACRES
Priority Date: MARCH 15, 1951
Rate: 20.8 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, 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 acre-feet per acre for each acre irrigated during the irrigation season of each year, provided further that the amount of water allowed herein, together with the amount secured under any other right existing for the lands shall not exceed the limitation allowed herein.
Source: HART LAKE, tributary to the WARNER LAKES

Authorized Point(s) of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
36 S	25 E	WM	18	SW SW	9	NORTH 77 DEGREES 18 MINUTES EAST, 8745.1 FEET FROM THE SW CORNER OF SECTION 14, T36S, R24E

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	24 E	WM	24	NE NW	1	20.00
35 S	24 E	WM	24	NW NW		10.00
35 S	24 E	WM	24	SW NW	2	40.00
35 S	24 E	WM	24	NW SW	3	28.14
35 S	24 E	WM	24	SW SW	4	23.80
35 S	24 E	WM	25	NW NW	1	31.17
35 S	24 E	WM	25	SW NW	2	39.94
35 S	24 E	WM	25	SE NW	3	14.29
35 S	24 E	WM	25	NE SW	4	33.30
35 S	24 E	WM	25	NW SW		33.00
35 S	24 E	WM	25	SW SW		39.90
35 S	24 E	WM	25	SE SW	5	33.30
35 S	24 E	WM	36	NE NW		33.30
35 S	24 E	WM	36	NW NW		40.00
35 S	24 E	WM	36	SW NW		40.00
35 S	24 E	WM	36	SE NW		33.30
35 S	24 E	WM	36	NE SW		33.30
35 S	24 E	WM	36	NW SW		40.00
35 S	24 E	WM	36	SW SW		40.00
35 S	24 E	WM	36	SE SW		33.30
35 S	25 E	WM	30	SW SW	4	39.57
35 S	25 E	WM	31	NW NW	1	40.00
35 S	25 E	WM	31	SW NW	2	40.00
35 S	25 E	WM	31	NE SW	5	19.55
35 S	25 E	WM	31	NW SW	3	40.00
35 S	25 E	WM	31	SW SW	4	39.00
35 S	25 E	WM	31	SE SW		35.00
36 S	24 E	WM	1	NE NW	1	32.74
36 S	24 E	WM	1	NW NW	2	36.65
36 S	24 E	WM	1	SW NW		24.00
36 S	24 E	WM	1	SE NW	3	35.27
36 S	24 E	WM	1	NE SW	4	35.35
36 S	24 E	WM	1	NW SW		34.00
36 S	24 E	WM	1	SW SW		40.00
36 S	24 E	WM	1	SE SW	5	35.22
36 S	24 E	WM	12	NE NW	1	36.05
36 S	24 E	WM	12	NW NW		40.00
36 S	24 E	WM	12	SW NW		40.00
36 S	24 E	WM	12	SE NW	2	34.75
36 S	24 E	WM	12	NE SW	3	34.75
36 S	24 E	WM	12	SE SW	4	34.15
36 S	24 E	WM	13	NE NW	1	34.00
36 S	24 E	WM	13	SE NW	4	34.00
36 S	24 E	WM	13	NE SW	5	14.00
36 S	25 E	WM	6	NW NE		23.00
36 S	25 E	WM	6	SW NE		20.00
36 S	25 E	WM	6	NE NW		34.00
36 S	25 E	WM	6	NW NW		38.00
36 S	25 E	WM	6	SW NW		40.10
36 S	25 E	WM	6	SE NW		40.00

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
36 S	25 E	WM	6	NE SW		35.00
36 S	25 E	WM	6	NW SW		40.18
36 S	25 E	WM	6	SW SW		40.26
36 S	25 E	WM	6	SE SW		40.00
36 S	25 E	WM	6	NW SE		27.00
36 S	25 E	WM	6	SW SE		40.00
36 S	25 E	WM	6	SE SE		10.00
36 S	25 E	WM	7	NE NE		38.00
36 S	25 E	WM	7	NW NE		40.00
36 S	25 E	WM	7	SW NE		40.00
36 S	25 E	WM	7	SE NE		40.00
36 S	25 E	WM	7	NE NW		40.00
36 S	25 E	WM	7	NW NW		40.26
36 S	25 E	WM	7	SW NW		40.18
36 S	25 E	WM	7	SE NW		40.00
36 S	25 E	WM	7	NE SW		40.00
36 S	25 E	WM	7	NW SW		40.10
36 S	25 E	WM	7	SW SW		40.20
36 S	25 E	WM	7	SE SW		40.00
36 S	25 E	WM	7	NE SE		37.00
36 S	25 E	WM	7	NW SE		39.00
36 S	25 E	WM	7	SW SE		31.00
36 S	25 E	WM	7	SE SE		38.00
36 S	25 E	WM	8	NW NW		12.00
36 S	25 E	WM	8	SW NW		28.00
36 S	25 E	WM	18	NE NE		29.00
36 S	25 E	WM	18	NW NE		34.00
36 S	25 E	WM	18	SW NE		31.00
36 S	25 E	WM	18	SE NE		38.00
36 S	25 E	WM	18	NE NW		40.00
36 S	25 E	WM	18	NW NW		40.00
36 S	25 E	WM	18	SW NW		40.00
36 S	25 E	WM	18	SE NW		40.00
36 S	25 E	WM	18	NE SW		40.00
36 S	25 E	WM	18	NW SW		40.00
36 S	25 E	WM	18	SW SW		37.08
36 S	25 E	WM	18	SE SW		40.00
36 S	25 E	WM	18	NE SE		37.00
36 S	25 E	WM	18	NW SE		37.00
36 S	25 E	WM	18	SW SE		41.30
36 S	25 E	WM	18	SE SE		26.00
36 S	25 E	WM	19	NW NE	8	22.00
36 S	25 E	WM	19	NE NW	9	6.00
TOTAL:						3,177.75

14. Certificate 22209 does not describe the irrigation season, however information is available in the Warner Lake Decree stating that the irrigation season is March 1st to October 1st of each year.

15. Certificate 22209 does not describe the distance of the point of diversion from survey corners, however information is available from the water right map indicating that the point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
36 S	25 E	WM	18	SW SW	9	NORTH 77 DEGREES 18 MINUTES EAST, 8745.1 FEET FROM THE SW CORNER OF SECTION 14, T36S, R24E

16. Transfer Application T-10750 proposes to move the authorized point of diversion approximately 60 feet southeast to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
36 S	25 E	WM	18	SW SW	12	96 FEET NORTH AND 4528 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 18

17. Certificate 22209 describes the authorized place of use for 35.35 acres in the Lot 4 (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 1, 36.05 acres in Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Section 12, Township 36 South, Range 24 East, W. M., and 40.20 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, Township 36 South, Range 25 East, W.M., Lake County, Oregon.

- a. The transfer application depicts the place of use under Certificate 22209 as being 35.25 acres in the Lot 4 (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 1, 35.05 acres in Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Section 12, Township 36 South, Range 24 East, W. M., and 40.02 acres in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 7, Township 36 South, Range 25 East, W.M.
- b. It appears that the place of use depicted in the 1916 survey and the transfer map are the same area on the ground. Although the footprint is the same, the use of current technology to measure the area results in a slightly different quantification of acreage. This leads the Department to conclude that the land to which the right has always been appurtenant should be re-described.
- c. The following table lists the place of use as described in existing Certificate 22209 and a proposed re-description based on the above findings:

Original Description of Place of Use		Proposed Re-Description of Place of Use		
$\frac{1}{4}$ - $\frac{1}{4}$	Acres	$\frac{1}{4}$ - $\frac{1}{4}$	Acres	Current Tax Lot (additional information)
Lot 4 (NE $\frac{1}{4}$ SW $\frac{1}{4}$) Sec. 1	35.35	Lot 4 (NE $\frac{1}{4}$ SW $\frac{1}{4}$)	35.25	101
Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$) Sec. 12	36.05	Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$)	35.05	101
SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7	40.20	Lot 12 (SW $\frac{1}{4}$ SW $\frac{1}{4}$)	40.02	101
TOTAL:	111.60	TOTAL:	110.32	
Township 36 South, Range 24 East, W.M.				

18. The apparent 1.28 acre loss between the original description and the re-description does not represent a reduction in actual land area to which the water right is appurtenant, but is simply an adjustment of the water right record to more accurately reflect the reality on the ground.

Future certificates issued for this portion of the water right will be based on this re-description.

19. The place of use description in Certificate 22209 includes Government Lots in the description of the right in some sections, but not consistently throughout the place of use table. Since the true legal description of the land to which the water right is appurtenant is based on Government Lots, therefore, the place of use of the transferred portion of the right will be re-described as follows:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	24 E	WM	24	NE NW	1	20.00
35 S	24 E	WM	24	NW NW		10.00
35 S	24 E	WM	24	SW NW	2	40.00
35 S	24 E	WM	24	NW SW	3	28.14
35 S	24 E	WM	24	SW SW	4	23.80
35 S	24 E	WM	25	NW NW	1	31.17
35 S	24 E	WM	25	SW NW	2	39.94
35 S	24 E	WM	25	SE NW	3	14.29
35 S	24 E	WM	25	NE SW	4	33.30
35 S	24 E	WM	25	NW SW		33.00
35 S	24 E	WM	25	SW SW		39.90
35 S	24 E	WM	25	SE SW	5	33.30
35 S	24 E	WM	36	NE NW	1	33.30
35 S	24 E	WM	36	NW NW		40.00
35 S	24 E	WM	36	SW NW		40.00
35 S	24 E	WM	36	SE NW	2	33.30
35 S	24 E	WM	36	NE SW	3	33.30
35 S	24 E	WM	36	NW SW		40.00
35 S	24 E	WM	36	SW SW		40.00
35 S	24 E	WM	36	SE SW	4	33.30
35 S	25 E	WM	30	NW SW		2.37
35 S	25 E	WM	30	SW SW	4	35.40
35 S	25 E	WM	30	SE SW		1.80
35 S	25 E	WM	31	NW NW	1	40.00
35 S	25 E	WM	31	SW NW	2	40.00
35 S	25 E	WM	31	NE SW	5	19.55
35 S	25 E	WM	31	NW SW	3	40.00
35 S	25 E	WM	31	SW SW	4	39.00
35 S	25 E	WM	31	SE SW		35.00
36 S	24 E	WM	1	NE NW	1	32.74
36 S	24 E	WM	1	NW NW	2	36.65
36 S	24 E	WM	1	SW NW		24.00
36 S	24 E	WM	1	SE NW	3	35.27
36 S	24 E	WM	1	NE SW	4	35.25
36 S	24 E	WM	1	NW SW		34.00
36 S	24 E	WM	1	SW SW		40.00
36 S	24 E	WM	1	SE SW	5	35.22
36 S	24 E	WM	12	NE NW	1	35.05
36 S	24 E	WM	12	NW NW		40.00
36 S	24 E	WM	12	SW NW		40.00
36 S	24 E	WM	12	SE NW	2	34.75
36 S	24 E	WM	12	NE SW	3	34.75

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
36 S	24 E	WM	12	SE SW	4	34.15
36 S	24 E	WM	13	NE NW	1	34.00
36 S	24 E	WM	13	SE NW	4	34.00
36 S	24 E	WM	13	NE SW	5	14.00
36 S	25 E	WM	6	NW NE	8	23.00
36 S	25 E	WM	6	SW NE	7	20.00
36 S	25 E	WM	6	NE NW	9	34.00
36 S	25 E	WM	6	NW NW	10	38.00
36 S	25 E	WM	6	SW NW	11	40.10
36 S	25 E	WM	6	SE NW		40.00
36 S	25 E	WM	6	NE SW		35.00
36 S	25 E	WM	6	NW SW	12	40.18
36 S	25 E	WM	6	SW SW	13	40.26
36 S	25 E	WM	6	SE SW		40.00
36 S	25 E	WM	6	NW SE	3	1.20
36 S	25 E	WM	6	NW SE	6	25.80
36 S	25 E	WM	6	SW SE	4	11.40
36 S	25 E	WM	6	SW SE	5	28.60
36 S	25 E	WM	6	SE SE		10.00
36 S	25 E	WM	7	NE NE	1	30.70
36 S	25 E	WM	7	NE NE	8	7.30
36 S	25 E	WM	7	NW NE	8	38.50
36 S	25 E	WM	7	NW NE	1	1.50
36 S	25 E	WM	7	SW NE		40.00
36 S	25 E	WM	7	SE NE	2	21.30
36 S	25 E	WM	7	SE NE	7	18.70
36 S	25 E	WM	7	NE NW		40.00
36 S	25 E	WM	7	NW NW	9	40.26
36 S	25 E	WM	7	SW NW	10	40.18
36 S	25 E	WM	7	SE NW		40.00
36 S	25 E	WM	7	NE SW		40.00
36 S	25 E	WM	7	NW SW	11	40.10
36 S	25 E	WM	7	SW SW	12	40.02
36 S	25 E	WM	7	SE SW		40.00
36 S	25 E	WM	7	NE SE	3	11.20
36 S	25 E	WM	7	NE SE	6	25.80
36 S	25 E	WM	7	NW SE		39.00
36 S	25 E	WM	7	SW SE		31.00
36 S	25 E	WM	7	SE SE	4	3.70
36 S	25 E	WM	7	SE SE	5	34.30
36 S	25 E	WM	8	NW NW		12.00
36 S	25 E	WM	8	SW NW		28.00
36 S	25 E	WM	18	NE NE	1	9.60
36 S	25 E	WM	18	NE NE	8	19.40
36 S	25 E	WM	18	NW NE		34.00
36 S	25 E	WM	18	SW NE		31.00
36 S	25 E	WM	18	SE NE	2	12.70
36 S	25 E	WM	18	SE NE	7	25.30
36 S	25 E	WM	18	NE NW		40.00
36 S	25 E	WM	18	NW NW	9	40.00
36 S	25 E	WM	18	SW NW	10	40.00
36 S	25 E	WM	18	SE NW		40.00

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
36 S	25 E	WM	18	NE SW		40.00
36 S	25 E	WM	18	NW SW	11	40.00
36 S	25 E	WM	18	SW SW	12	37.08
36 S	25 E	WM	18	SE SW		40.00
36 S	25 E	WM	18	NE SE	3	30.20
36 S	25 E	WM	18	NE SE	6	6.80
36 S	25 E	WM	18	NW SE		37.00
36 S	25 E	WM	18	SW SE	5	41.30
36 S	25 E	WM	18	SE SE	4	26.00
36 S	25 E	WM	19	NW NE	8	22.00
36 S	25 E	WM	19	NE NW	9	6.00
TOTAL:						3,176.47

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

Certificate: 45409 in the name of FORREST E. COOPER (perfected under Permit S-27386)

Use: SUPPLEMENTAL IRRIGATION of 3195.57 ACRES

Priority Date: AUGUST 30, 1950

Rate: 23,392 ACRE FEET

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 not to exceed 3 acre feet for each acre irrigated during the irrigation season of each year and the right allowed hereunder for the appropriation of water for lands having a prior right shall be limited to the amount necessary to make up any deficiency in water available to said lands under said right and the amount allowed herein, together with the amount secured under any other right existing for said lands shall be limited by the duty of water as fixed herein.

Source: Hart Lake, tributary to Warner Lake Basin

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	24 E	WM	24	NE NW	1	20.00
35 S	24 E	WM	24	NW NW		10.00
35 S	24 E	WM	24	SW NW	2	40.00
35 S	24 E	WM	24	NW SW	3	28.14
35 S	24 E	WM	24	SW SW	4	23.80
35 S	24 E	WM	25	NW NW	1	31.17
35 S	24 E	WM	25	SW NW	2	39.94
35 S	24 E	WM	25	SE NW	3	14.29
35 S	24 E	WM	25	NE SW	4	33.30
35 S	24 E	WM	25	NW SW		33.00
35 S	24 E	WM	25	SW SW		39.90
35 S	24 E	WM	25	SE SW	5	33.30
35 S	24 E	WM	36	NE NW	1	33.30
35 S	24 E	WM	36	NW NW		40.00
35 S	24 E	WM	36	SW NW		40.00

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	24 E	WM	36	SE NW	2	33.30
35 S	24 E	WM	36	NE SW	3	33.30
35 S	24 E	WM	36	NW SW		40.00
35 S	24 E	WM	36	SW SW		40.00
35 S	24 E	WM	36	SE SW	4	33.30
35 S	25 E	WM	30	SW SW	4	39.57
35 S	25 E	WM	31	NW NW	1	53.00
35 S	25 E	WM	31	SW NW	2	45.00
35 S	25 E	WM	31	NE SW	5	19.55
35 S	25 E	WM	31	NW SW	3	40.00
35 S	25 E	WM	31	SW SW	4	39.00
35 S	25 E	WM	31	SE SW		35.00
36 S	24 E	WM	1	NE NW	1	32.74
36 S	24 E	WM	1	NW NW	2	36.65
36 S	24 E	WM	1	SW NW		24.00
36 S	24 E	WM	1	SE NW	3	35.27
36 S	24 E	WM	1	NE SW	4	35.35
36 S	24 E	WM	1	NW SW		34.00
36 S	24 E	WM	1	SW SW		40.00
36 S	24 E	WM	1	SE SW	5	35.22
36 S	24 E	WM	12	NE NW	1	36.05
36 S	24 E	WM	12	NW NW		40.00
36 S	24 E	WM	12	SW NW		40.00
36 S	24 E	WM	12	SE NW	2	34.75
36 S	24 E	WM	12	NE SW	3	34.75
36 S	24 E	WM	12	SE SW	4	34.15
36 S	24 E	WM	13	NE NW	1	34.00
36 S	24 E	WM	13	SE NW	4	34.00
36 S	24 E	WM	13	NE SW	5	14.00
36 S	25 E	WM	6	NW NE	8	23.00
36 S	25 E	WM	6	SW NE	7	20.00
36 S	25 E	WM	6	NE NW	9	34.00
36 S	25 E	WM	6	NW NW	10	38.00
36 S	25 E	WM	6	SW NW	11	40.10
36 S	25 E	WM	6	SE NW		40.00
36 S	25 E	WM	6	NE SW		35.00
36 S	25 E	WM	6	NW SW	12	40.18
36 S	25 E	WM	6	SW SW	13	40.26
36 S	25 E	WM	6	SE SW		40.00
36 S	25 E	WM	6	NW SE	3	27.00
36 S	25 E	WM	6	SW SE	4	40.00
36 S	25 E	WM	6	SE SE		10.00
36 S	25 E	WM	7	NE NE	1	38.00
36 S	25 E	WM	7	NW NE	8	40.00
36 S	25 E	WM	7	SW NE		40.00
36 S	25 E	WM	7	SE NE	2	40.00
36 S	25 E	WM	7	NE NW		40.00
36 S	25 E	WM	7	NW NW	9	40.26
36 S	25 E	WM	7	SW NW	10	40.18
36 S	25 E	WM	7	SE NW		40.00
36 S	25 E	WM	7	NE SW		40.00
36 S	25 E	WM	7	NW SW	11	40.10

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
36 S	25 E	WM	7	SW SW	12	40.02
36 S	25 E	WM	7	SE SW		40.00
36 S	25 E	WM	7	NE SE	3	37.00
36 S	25 E	WM	7	NW SE		39.00
36 S	25 E	WM	7	SW SE		31.00
36 S	25 E	WM	7	SE SE	4	38.00
36 S	25 E	WM	8	NW NW		12.00
36 S	25 E	WM	8	SW NW		28.00
36 S	25 E	WM	18	NE NE	1	29.00
36 S	25 E	WM	18	NW NE		34.00
36 S	25 E	WM	18	SW NE		31.00
36 S	25 E	WM	18	SE NE	2	38.00
36 S	25 E	WM	18	NE NW		40.00
36 S	25 E	WM	18	NW NW	9	40.00
36 S	25 E	WM	18	SW NW	10	40.00
36 S	25 E	WM	18	SE NW		40.00
36 S	25 E	WM	18	NE SW		40.00
36 S	25 E	WM	18	NW SW	11	40.00
36 S	25 E	WM	18	SW SW	12	37.08
36 S	25 E	WM	18	SE SW		40.00
36 S	25 E	WM	18	NE SE	3	37.00
36 S	25 E	WM	18	NW SE		37.00
36 S	25 E	WM	18	SW SE	5	41.30
36 S	25 E	WM	18	SE SE	4	26.00
36 S	25 E	WM	19	NW NE	8	22.00
36 S	25 E	WM	19	NE NW	9	6.00
TOTAL:						3,195.57

21. Certificate 45409 does not describe the irrigation season, however information is available in the Warner Lake Decree stating that the irrigation season is March 1st to October 1st of each year.
22. Certificate 45409 does not describe the location of the point of diversion, however information submitted with the transfer application indicates that the point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
36 S	25 E	WM	18	SW SW	12	NORTH 77 DEGREES 18 MINUTES EAST, 8745 FEET FROM THE SW CORNER OF SECTION 14, T36S, R24E

23. Transfer Application T-10750 proposes to move the authorized point of diversion approximately 60 feet southeast to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
36 S	25 E	WM	18	SW SW	12	96 FEET NORTH AND 4528 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 18

24. Certificate 45409 describes the authorized place of use as 35.35 acres in the Lot 4 (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 1 and 36.05 acres in Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Section 12, Township 36 South, Range 24 East, W. M., Lake County, Oregon.
- The transfer application depicts the place of use under Certificate 45409 as being 35.25 acres in the Lot 4 (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 1 and 35.05 acres in Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), Section 12, Township 36 South, Range 24 East, W. M..
 - It appears that the place of use depicted in the 1950 survey and the transfer map are the same area on the ground. Though the footprint is the same, use of current day technology to measure the area results in a slightly different quantification of acreage. This leads the Department to conclude that the land to which the right has always been appurtenant should be re-described.
 - The following table lists the place of use as described in existing certificate 45409 and a proposed re-description based on the above findings:

Original Description of Place of Use		Proposed Re-Description of Place of Use		
$\frac{1}{4}$ - $\frac{1}{4}$	Acres	$\frac{1}{4}$ - $\frac{1}{4}$	Acres	Current Tax Lot (additional information)
Lot 4 (NE $\frac{1}{4}$ SW $\frac{1}{4}$) Sec. 1	35.35	Lot 4 (NE $\frac{1}{4}$ SW $\frac{1}{4}$)	35.25	101
Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$) Sec. 12	36.05	Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$)	35.05	101
TOTAL:	71.4	TOTAL:	70.3	
Township 36 South, Range 24 East, W.M				

25. The apparent 1.1 acre loss between the original description and the re-description does not represent a reduction in actual land area to which the water right is appurtenant, but is simply an adjustment of the water right record to more accurately reflect the reality on the ground. Future certificates issued for this portion of the water right will be based on this re-description.
26. The place of use description in Certificate 45409 includes Government Lots in the description of the right in all sections where applicable, but for purposes of the water right records, which are organized primarily by $\frac{1}{4}$ $\frac{1}{4}$ Sections, and to standardize the descriptions of rights appurtenant to the same lands, when a confirming certificate is issued for the place of use involved in the transfer, it will be described as follows:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	24 E	WM	24	NE NW	1	20.00
35 S	24 E	WM	24	NW NW		10.00
35 S	24 E	WM	24	SW NW	2	40.00
35 S	24 E	WM	24	NW SW	3	28.14
35 S	24 E	WM	24	SW SW	4	23.80
35 S	24 E	WM	25	NW NW	1	31.17
35 S	24 E	WM	25	SW NW	2	39.94

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	24 E	WM	25	SE NW	3	14.29
35 S	24 E	WM	25	NE SW	4	33.30
35 S	24 E	WM	25	NW SW		33.00
35 S	24 E	WM	25	SW SW		39.90
35 S	24 E	WM	25	SE SW	5	33.30
35 S	24 E	WM	36	NE NW	1	33.30
35 S	24 E	WM	36	NW NW		40.00
35 S	24 E	WM	36	SW NW		40.00
35 S	24 E	WM	36	SE NW	2	33.30
35 S	24 E	WM	36	NE SW	3	33.30
35 S	24 E	WM	36	NW SW		40.00
35 S	24 E	WM	36	SW SW		40.00
35 S	24 E	WM	36	SE SW	4	33.30
35 S	25 E	WM	30	NW SW		2.37
35 S	25 E	WM	30	SW SW	4	35.40
35 S	25 E	WM	30	SE SW		1.80
35 S	25 E	WM	31	NE NW	1	13.00
35 S	25 E	WM	31	NW NW	1	40.00
35 S	25 E	WM	31	SW NW	2	40.00
35 S	25 E	WM	31	SE NW	2	5.00
35 S	25 E	WM	31	NE SW	5	19.55
35 S	25 E	WM	31	NW SW	3	40.00
35 S	25 E	WM	31	SW SW	4	39.00
35 S	25 E	WM	31	SE SW		35.00
36 S	24 E	WM	1	NE NW	1	32.74
36 S	24 E	WM	1	NW NW	2	36.65
36 S	24 E	WM	1	SW NW		24.00
36 S	24 E	WM	1	SE NW	3	35.27
36 S	24 E	WM	1	NE SW	4	35.25
36 S	24 E	WM	1	NW SW		34.00
36 S	24 E	WM	1	SW SW		40.00
36 S	24 E	WM	1	SE SW	5	35.22
36 S	24 E	WM	12	NE NW	1	35.05
36 S	24 E	WM	12	NW NW		40.00
36 S	24 E	WM	12	SW NW		40.00
36 S	24 E	WM	12	SE NW	2	34.75
36 S	24 E	WM	12	NE SW	3	34.75
36 S	24 E	WM	12	SE SW	4	34.15
36 S	24 E	WM	13	NE NW	1	34.00
36 S	24 E	WM	13	SE NW	4	34.00
36 S	24 E	WM	13	NE SW	5	14.00
36 S	25 E	WM	6	NW NE	8	23.00
36 S	25 E	WM	6	SW NE	7	20.00
36 S	25 E	WM	6	NE NW	9	34.00
36 S	25 E	WM	6	NW NW	10	38.00
36 S	25 E	WM	6	SW NW	11	40.10
36 S	25 E	WM	6	SE NW		40.00
36 S	25 E	WM	6	NE SW		35.00
36 S	25 E	WM	6	NW SW	12	40.18
36 S	25 E	WM	6	SW SW	13	40.26
36 S	25 E	WM	6	SE SW		40.00
36 S	25 E	WM	6	NW SE	3	1.20

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
36 S	25 E	WM	6	NW SE	6	25.80
36 S	25 E	WM	6	SW SE	4	11.40
36 S	25 E	WM	6	SW SE	5	28.60
36 S	25 E	WM	6	SE SE		10.00
36 S	25 E	WM	7	NE NE	1	30.70
36 S	25 E	WM	7	NE NE	8	7.30
36 S	25 E	WM	7	NW NE	8	38.50
36 S	25 E	WM	7	NW NE	1	1.50
36 S	25 E	WM	7	SW NE		40.00
36 S	25 E	WM	7	SE NE	2	21.30
36 S	25 E	WM	7	SE NE	7	18.70
36 S	25 E	WM	7	NE NW		40.00
36 S	25 E	WM	7	NW NW	9	40.26
36 S	25 E	WM	7	SW NW	10	40.18
36 S	25 E	WM	7	SE NW		40.00
36 S	25 E	WM	7	NE SW		40.00
36 S	25 E	WM	7	NW SW	11	40.10
36 S	25 E	WM	7	SW SW	12	40.02
36 S	25 E	WM	7	SE SW		40.00
36 S	25 E	WM	7	NE SE	3	11.20
36 S	25 E	WM	7	NE SE	6	25.80
36 S	25 E	WM	7	NW SE		39.00
36 S	25 E	WM	7	SW SE		31.00
36 S	25 E	WM	7	SE SE	4	3.70
36 S	25 E	WM	7	SE SE	5	34.30
36 S	25 E	WM	8	NW NW		12.00
36 S	25 E	WM	8	SW NW		28.00
36 S	25 E	WM	18	NE NE	1	9.60
36 S	25 E	WM	18	NE NE	8	19.40
36 S	25 E	WM	18	NW NE		34.00
36 S	25 E	WM	18	SW NE		31.00
36 S	25 E	WM	18	SE NE	2	12.70
36 S	25 E	WM	18	SE NE	7	25.30
36 S	25 E	WM	18	NE NW		40.00
36 S	25 E	WM	18	NW NW	9	40.00
36 S	25 E	WM	18	SW NW	10	40.00
36 S	25 E	WM	18	SE NW		40.00
36 S	25 E	WM	18	NE SW		40.00
36 S	25 E	WM	18	NW SW	11	40.00
36 S	25 E	WM	18	SW SW	12	37.08
36 S	25 E	WM	18	SE SW		40.00
36 S	25 E	WM	18	NE SE	3	30.20
36 S	25 E	WM	18	NE SE	6	6.80
36 S	25 E	WM	18	NW SE		37.00
36 S	25 E	WM	18	SW SE	5	41.30
36 S	25 E	WM	18	SE SE	4	26.00
36 S	25 E	WM	19	NW NE	8	22.00
36 S	25 E	WM	19	NE NW	9	6.00
TOTAL:						3,194.47

27. Notice of the application for transfer was published on December 30, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

28. On April 1, 2009, the Department emailed a copy of the *draft* Preliminary Determination proposing to approve Transfer Application T- 10750 to the applicant. The *draft* Preliminary Determination set forth a deadline of May 1, 2009, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and on April 21, 2009, the Water Resources Department received a preliminary title report provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
29. On July 21, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10750 and mailed a copy to the applicant. An incomplete protest was received and returned to the protestant.
30. On August 27, 2009, the Department received two affidavits asserting non-use under ORS 540.610 of a portion of the water rights proposed for transfer.
31. On October 15, 2009, the Department initiated cancellation proceedings pursuant to ORS 540.610 by issuing Notices of Proposed Partial Cancellation of water rights for a portion of the water rights proposed for transfer.
32. On October 19, 2009, following Notices of Proposed Partial Cancellation, the Department issued an order recorded at Special Order Volume 79, Pages 38 to 39, withdrawing the Preliminary Determination. The order stated the Department shall issue a revised Preliminary Determination consistent with the outcome of the ORS 540.610 cancellation proceeding.
33. A cancellation hearing (OAH Ref. No: WR-10-001) was held December 13 through December 17, 2010, before Administrative Law Judge (ALJ) Allen of the Oregon Office of Administrative Hearings.
34. On March 31, 2011, ALJ Allen issued a Proposed Order finding the BLM has not failed to beneficially use water on the contested acres for a period of five or more years during the period in issue and no portion of the water rights evidenced by Certificates 9451, 22209 and 45409 has been forfeited due to non-use during the period in issue.
35. On April 5, 2011, ALJ Allen issued a Corrected Proposed Order because the order was issued without required exceptions language.
36. On November 14, 2011, the Department issued an Amended Corrected Proposed Order consistent with that of ALJ Allen.
37. On April 20, 2012, The Water Resources Commission (WRC) issued a Final Order, after hearing exceptions and responses to exceptions filed by the Proponent and Protestants, adopting the Amended Corrected Proposed Order. The Final Order of the WRC states the United State Bureau of Land Management has not failed to beneficially use water on the contested acres for a period of five or more consecutive years during the period in issue and

no portion of the water rights evidenced by Certificates 9451, 22209 and 45409 has been forfeited due to non-use during the period in issue.

38. 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 currently equipped with an appropriate fish screening and/or by-pass device.

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

39. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
40. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Application T-10750.
41. The proposed change would not result in enlargement of the rights.
42. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in point of diversion proposed in application T-10750 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 application will be approved.

If application T-10750 is approved, the final order will include the following:

1. *The change in point of diversion proposed in application T-10750 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 Certificates 9451, 22209, and 45409 and any related decree.*
3. *Water right certificates 9451, 22209, and 45409 are cancelled. New certificates will be issued describing the portions of the rights 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. *The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.*

6. *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 diversion.*
 - 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 is located within a private structure, the Watermaster shall request access upon reasonable notice.*
7. *Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.*
8. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2014**. 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.*
9. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 26 day of April, 2012.


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

This Revised Preliminary Determination was prepared by Greg Nelson. If you have questions about the information in this document, you may reach me at 503-986-0888 or Greg.L.Nelson@wrdd.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.

