



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

North Mall Office Building
725 Summer St. NE, Suite A
Salem, OR 97301
Phone 503-986-0900
FAX 503-986-0904
www.wrd.state.or.us

May 17, 2012

VIA E-MAIL

Applicant

JEFF AND ERIN MAUPIN
67477 SILVER CREEK RD
RILEY, OR 97758-9618

SUBJECT: Water Right Transfer Application T-11312

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11312. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Burns Times Herald newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

If no protest is filed, the Department will issue a Final Order consistent with the 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) 986-0890 or Dorothy.I.Pedersen@wrd.state.or.us if I may be of assistance.

Sincerely,

Dorothy Pedersen
Transfer Program Advisor

cc: T-11312
Tony D. Rutherford, District 10 Watermaster (*via e-mail*)
Scott D. Montgomery, Agent for the applicant (*via e-mail*)

encs



Source: Well 2 within the Malheur Lake Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	34 E	WM	6	NE SW	20 FEET SOUTH AND 940 FEET EAST FROM THE W1/4 CORNER OF SECTION 6

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	34 E	WM	6	SW SW	7	26.0
26 S	34 E	WM	6	SE SW		40.0
26 S	34 E	WM	7	NE NW		39.2
26 S	34 E	WM	7	NW NW	1	25.2

3. Transfer Application T-11312 proposes to move the authorized point of appropriation approximately 3900 feet from the existing point of appropriation to:

	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 3B (HARN 1414)	26 S	34 E	WM	7	NE NW	1295 FEET SOUTH AND 960 FEET EAST FROM THE NW CORNER OF SECTION 7

4. Transfer Application T-11312 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	33 E	WM	1	SE SE		6.2
26 S	33 E	WM	12	NE NE		6.4
26 S	34 E	WM	6	SW SW	7	25.5
26 S	34 E	WM	6	SE SW		33.3
26 S	34 E	WM	7	NE NW		31.7
26 S	34 E	WM	7	NW NW	1	25.2
26 S	34 E	WM	7	SW NW	2	2.1

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

Certificate: 64983 in the name of Connecticut General Life Ins Co., Dee V. Doman (perfected under Permit G-8269)

Use: Supplemental irrigation of 104.4 acres

Priority Date: April 4, 1978

Rate: 1.31 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 4 within the Malheur Lake Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	34 E	WM	7	NW NE	50 FEET SOUTH AND 1360 FEET WEST FROM THE NE CORNER OF SECTION 7

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	34 E	WM	6	SE SW		40.0
26 S	34 E	WM	7	NE NW		39.2
26 S	34 E	WM	7	NW NW	1	25.2

6. Transfer Application T-11312 proposes to move the authorized point of appropriation approximately 2850 feet from the existing point of appropriation to:

	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 3B (HARN 1414)	26 S	34 E	WM	7	NE NW	1295 FEET SOUTH AND 960 FEET EAST FROM THE NW CORNER OF SECTION 7

7. Transfer Application T-11312 also proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	33 E	WM	12	NE NE		6.4
26 S	34 E	WM	6	SW SW	7	7.8
26 S	34 E	WM	6	SE SW		33.3
26 S	34 E	WM	7	NE NW		31.7
26 S	34 E	WM	7	NW NW	1	25.2

8. Notice of the application for transfer was published on November 8, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. On February 17, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11312 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 18, 2012, for the applicants to respond. The applicants 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)

10. Water has been used within the last five years prior to the submittal of Transfer Application T-11312 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.
11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-11312.
12. The proposed change would not result in enlargement of the rights.

13. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in point of appropriation and change in place of use proposed in Transfer Application T-11312 appear 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-11312 is approved, the final order will include the following:

- 1. The change in point of appropriation and change in place of use proposed in application T-11312 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 Certificates 64982 and 64983 and any related decree.*
- 3. Water right certificates 64982 and 64983 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
- 4. The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.*
- 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 appropriation.*
 - b. The water user shall maintain the meter or measuring devices in good working order.*
 - c. The water user shall allow the Watermaster access to the meter or measuring devices; provided however, where the meter or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
- 6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 7. The former place of use of the transferred right shall no longer receive water under the rights.*
- 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, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 18 day of May, 2012.


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

This Preliminary Determination was prepared by Joel Plahn. If you have questions about the information in this document, you may reach Dorothy Pedersen at 503-986-0890 or Dorothy.I.Pedersen@wrд.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.