



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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September 13, 2012

Applicant

SAGE HOLLOW RANCH LLC
3620 INDEPENDENCE RD
SUNNYSIDE, WA 98938

SUBJECT: Water Right Transfer Application T-11198

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11198. 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 Heppner Gazette 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 note that Finding of Fact #9 indicates that the proposed wells are not in compliance with OAR 690-210 minimum well construction standards. You may contact Kristopher Byrd at (503) 986-0851 for construction details. While this does not prevent approval of the transfer, you will need to bring the wells up to standard in order to legally continue to use these wells.

Please do not hesitate to contact me at (503) 986-0890 or Dorothy.I.Pedersen@wrdd.state.or.us if I may be of assistance.

Sincerely,

Dorothy Pedersen
Transfer Program Advisor

cc: T-11198
Tony G. Justus, District 5 Watermaster *(via e-mail)*
Ronald V. McKinnis, Agent for the applicant *(via e-mail)*
Kristopher Byrd, WRD Well Construction Program Coordinator *(via e-mail)*

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

In the Matter of Transfer Application)
T-11198, Morrow County)
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PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF
CHANGES IN POINT OF
APPROPRIATION AND PLACE 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

SAGE HOLLOW RANCH LLC
3620 INDEPENDENCE RD
SUNNYSIDE, WA 98944

Agent

RONALD V. MCKINNIS
MCKINNIS ENGINEERING
79980 PRINDLE LOOP ROAD
HERMISTON, OR 97838

Findings of Fact

Background

1. On February 14, 2011, Sage Hollow Ranch, LLC., filed an application to change the point of appropriation and place of use under Certificates 81577 and 82668. The Department assigned the application number T-11198.

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

Certificate: 81577 in the name of Glenn and Erin Chowning (perfected under Permit G-1322)

Use: Irrigation of 51.3 acres

Priority Date: March 11, 1959

Rate: 0.5 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-eightieth 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.

Source: A well in the Columbia River Basin

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.

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	26 E	WM	10	NE SW	1380 FEET NORTH AND 1320 FEET EAST FROM THE SW CORNER OF SECTION 10 (SHOWN ON CERTIFICATE 31194 AS 75 FEET NORTH AND 20 FEET EAST FROM THE CENTER OF SW1/4)

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	10	NE NW	5.7
3 N	26 E	WM	10	SW NW	13.7
3 N	26 E	WM	10	SE NW	31.9
Total:					51.3

3. Transfer Application T-11198 proposes to move the authorized point of appropriation approximately 6,600 feet to Well 1B and 8,600 feet to Well 2B from the existing point of appropriation to:

RATE	WELL #	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
0.29 CFS	WELL 1B	3 N	26 E	WM	4	NW SE	1390 FEET NORTH AND 2390 FEET WEST FROM THE SE CORNER OF SECTION 4
0.21 CFS	WELL 2B	3 N	26 E	WM	4	NE NE	840 FEET SOUTH AND 430 FEET WEST FROM THE NE CORNER OF SECTION 4

4. Certificate 81577 contains a scrivener's error. Certificate 81577 incorrectly identifies the total acres to be irrigated as 90.5 acres. The tabulation of acres listed in Certificate 81577 equals 90.6 acres. This error will be corrected when confirming and remaining certificates are issued after approval of this transfer.

5. Transfer Application T-11198 also proposes to change the place of use of the right to:

IRRIGATION						
WELL	Twp	Rng	Mer	Sec	Q-Q	Acres
WELL 2B	3 N	26 E	WM	4	NW NE	18.3
WELL 1B	3 N	26 E	WM	4	SW NE	4.6
WELL 1B	3 N	26 E	WM	4	SE NE	3.3
WELL 2B	3 N	26 E	WM	4	NE NW	3.5
WELL 1B	3 N	26 E	WM	4	SE NW	1.7
WELL 1B	3 N	26 E	WM	4	NE SW	3.4
WELL 1B	3 N	26 E	WM	4	NE SE	8.3
WELL 1B	3 N	26 E	WM	4	NW SE	8.2
Total:						51.3

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

Certificate: 82668 in the name of Sage Hollow Ranch LLC., (perfected under Permit S-45563)-

Use: Supplemental irrigation of 51.3 acres

Priority Date: February 5, 1981

Rate: 0.44 cubic foot per second (cfs)

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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year, provided further that although declared herein to be for supplemental irrigation in part the right allowed may, in the interest of conserving the ground water supplies, be exercised at times when water is available in the ground water supply provided that the total quantity diverted from all sources of supply does not exceed the limitation allowed herein.

Source: Columbia River, a tributary of the Pacific Ocean

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Gov't Lot	Measured Distances
4 N	25 E	WM	2	NE NW	7	150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	10	NE NW	5.7
3 N	26 E	WM	10	SW NW	13.7
3 N	26 E	WM	10	SE NW	31.9
Total:					51.3

7. Transfer Application T-11198 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	4	NW NE	18.3
3 N	26 E	WM	4	SW NE	4.6
3 N	26 E	WM	4	SE NE	3.3
3 N	26 E	WM	4	NE NW	3.5
3 N	26 E	WM	4	SE NW	1.7
3 N	26 E	WM	4	NE SW	3.4
3 N	26 E	WM	4	NE SE	8.3
3 N	26 E	WM	4	NW SE	8.2
Total:					51.3

8. Notice of the application for transfer was published on February 22, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. The Department has determined that the wells involved in Transfer Application T-11198 do not comply with current minimum well construction standards (OAR 690-210).

10. On June 14, 2012, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11198 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 16, 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.

Transfer Review Criteria (OAR 690-380-4010)

9. Water has been used within the last five years prior to the submittal of Transfer Application T-11198 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.
10. 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-11198.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

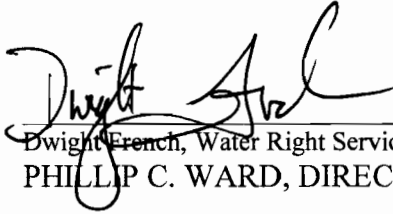
The changes in point of appropriation and change in place of use proposed in Transfer Application T-11198 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11198 is approved, the final order will include the following:

1. *The change in point of appropriation and change in place of use proposed in Transfer Application T-11198 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 81577 and 82668 and any related decree.*
3. *Water right certificates 81577 and 82668 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 points of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.*
5. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
6. *The former place of use of the transferred right shall no longer receive water under the right.*

7. *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.*
8. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 11 day of September, 2012



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

This Preliminary Determination was prepared by Susan Douthit. If you have questions about the information in this document you may contact me by telephone at 503-986-0858 or via email at Susan.M.Douthit@state.or.us.

Protests should be addressed to the attention of the Transfer and Conservation Section, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.