



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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September 13, 2012

VIA E-MAIL

Agent

DENNIS R. GLENDER
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PO BOX 101
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Applicant

THE POPLARS RANCH INC.
59234 FORT ROCK RD
SILVER LAKE, OR 97638
alan@poplarsranch.com

SUBJECT: Water Right Transfer Application T-11322

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11322. 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 Lake County Examiner 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@wrdd.state.or.us if I may be of assistance.

Sincerely,

Dorothy Pedersen
Transfer Program Advisor

cc: T-11322
Brian M. Mayer, District 12 Watermaster (*via e-mail*)

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11322, Lake County)	PROPOSING APPROVAL OF
)	CHANGES IN POINTS 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

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SILVER LAKE, OR 97638

Agent

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8664 SW SAND RIDGE RD.
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Findings of Fact

Background

1. On December 2, 2011, The Poplars Ranch Inc., c/o Alan Parks, President, filed an application to change points of appropriation and place of use under Certificates 56502, 55099, 76038, 81489 and 55100. The Department assigned the application number T-11322.
2. On July 3, 2012, modifications to the application and revised maps were submitted.
3. The portion of the first right to be transferred is as follows:

Certificate: 56502 in the name of THE POPLARS RANCH INC. (perfected under Application U-773)
Use: IRRIGATION of 64.2 ACRES
Priority Date: DECEMBER 29, 1954
Rate: 0.80 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 3.0

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.

acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: POPLARS WELL 4 within the SILVER LAKE [FORT ROCK] BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	33	SW NE	3950 FEET NORTH AND 1330 FEET WEST FROM THE SE CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE NE	12.3
26 S	15 E	WM	33	NW NE	21.5
26 S	15 E	WM	33	SW NE	18.9
26 S	15 E	WM	33	SE NE	11.5

4. Transfer Application T-11322 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE NE	29.7
26 S	15 E	WM	33	NW NE	3.7
26 S	15 E	WM	33	SE NE	30.8

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

Certificate: 55099 in the name of THE POPLARS RANCH INC. (perfected under Permit G-8650)

Use: IRRIGATION of 1.6 ACRES

Priority Date: AUGUST 21, 1979

Rate: 0.02 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	28	SW SE	1320 FEET NORTH AND 1300 FEET EAST FROM THE S1/4 CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	28	SW SE	0.8
26 S	15 E	WM	28	SE SE	0.8

6. Transfer Application T-11322 proposes to move the authorized point of appropriation to Well #3 (LAKE 51764), approximately 0.7 mile from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	33	NW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 33

7. Transfer Application T-11322 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE NW	1.6

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

Certificate: 76038 in the name of Z X RANCH (perfected under Permit G-6670)
Use: IRRIGATION of 3.0 ACRES
Priority Date: SEPTEMBER 23, 1974
Rate: 0.04 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: WELL #7 within the SILVER LAKE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	28	SW SW	3957 FEET SOUTH AND 1283 FEET EAST FROM THE NW CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	28	NE SW	0.25
26 S	15 E	WM	28	NW SW	1.25
26 S	15 E	WM	28	SW SW	1.25
26 S	15 E	WM	28	SE SW	0.25

9. Transfer Application T-11322 proposes to move the authorized point of appropriation to Well #3 (LAKE 51764), approximately 0.5 mile from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	33	NW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 33

10. Transfer Application T-11322 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE NW	3.0

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

Certificate: 81489 in the name of THE POPLARS RANCH INC. (perfected under Permit G-9146)

Use: IRRIGATION of 86.3 ACRES

Priority Date: JANUARY 9, 1981

Rate: 1.08 CUBIC FEET PER SECOND, being 0.95 cfs from the well in Section 34 and 0.13 cfs from the well in Section 33, if available at the original point of appropriation located in the NW¹/₄ SE¹/₄, Section 34, T26S, R15E, W.M., 1450 feet north and 1350 feet west from the SE Corner of Section 34.

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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: TWO WELLS within the FORT ROCK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	33	NW SW	1330 FEET NORTH AND 1330 FEET WEST FROM THE S1/4 CORNER OF SECTION 33
26 S	15 E	WM	34	NW SE	1450 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE SW	2.3
26 S	15 E	WM	33	NW SW	3.8
26 S	15 E	WM	33	SW SW	2.4
26 S	15 E	WM	33	SE SW	1.8
26 S	15 E	WM	34	SW SE	37.0
26 S	15 E	WM	34	SE SE	39.0

12. Transfer Application T-11322 proposes to move the authorized points of appropriation to Well #3 (LAKE 51764), approximately 0.5 mile from the well in Section 33 and 1.6 miles from the well in Section 34:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	33	NW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 33

13. Transfer Application T-11322 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE NW	16.6
26 S	15 E	WM	33	NW NW	8.5
26 S	15 E	WM	33	SW NW	29.9
26 S	15 E	WM	33	SE NW	31.3

14. The fifth right to be transferred is as follows:

Certificate: 55100 in the name of THE POPLARS RANCH INC. (perfected under Permit G-9069)

Use: IRRIGATION of 61.7 ACRES

Priority Date: JULY 15, 1980

Rate: 0.77 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 within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	33	SW NE	3950 FEET NORTH AND 1330 FEET WEST FROM THE SE CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NE NE	18.3
26 S	15 E	WM	33	NW NE	9.0
26 S	15 E	WM	33	SW NE	13.5
26 S	15 E	WM	33	SE NE	20.9

15. Transfer Application T-11322 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	33	NW NE	28.6
26 S	15 E	WM	33	SW NE	33.1

16. Notice of the application for transfer was published on December 13, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
17. On May 31, 2012, the Department notified the applicant and agent via e-mail of items that need clarification. On June 2 and July 3, 2012, the applicant's agent responded by submitting answers and revised pages and maps.
18. On July 25, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11322 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 27, 2012, for the applicant 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 applicant is authorized to pursue the transfer.

Transfer Review Criteria (OAR 690-380-4010)

19. Water has been used within the last five years prior to the submittal of Transfer Application T-11322 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.
20. Pumps, pipelines, and sprinkler systems 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-11322.
21. The proposed changes would not result in enlargement of the rights.
22. The proposed change would not result in injury to other water rights.
23. The proposed well accesses water from the same groundwater source as the authorized wells: the main groundwater reservoir in the Fort Rock Basin as described by Miller (1984).

Determination and Proposed Action

The changes in points of appropriation and place of use proposed in Transfer Application T-11322 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-11322 is approved, the final order will include the following:

1. *The changes in points of appropriation and place of use proposed in application T-11322 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 56502, 56502, 55099, 76038, 81489 and 55100 and any related decree.*
3. *Water right certificates 56502, 56502, 55099, 76038, 81489 and 55100 are cancelled. New certificates will be issued describing those portions of the rights evidenced by Certificates 56502, 55099, 76038 and 81489 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 the new point of appropriation.*
 - 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.*
6. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
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, new certificates confirming the rights transferred will be issued.*

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


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

This Preliminary Determination was prepared by Dorothy Pedersen. If you have questions about the information in this document, you may reach me 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.