



# Oregon

John A. Kitzhaber, MD, Governor

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February 11, 2013

**Applicant**

MARK ZOLLER  
PO BOX 288  
WASHOUGAL, WA 98671

SUBJECT: Water Right Transfer Application T-11159

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11159. 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, 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 Department's notice.

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](mailto:Dorothy.I.Pedersen@wrd.state.or.us) if I may be of assistance.

Sincerely,

Dorothy I. Pedersen  
Transfer Program Advisor

cc: T-11159  
Kenneth C. Thiemann, District 21 Watermaster (*via e-mail*)  
William I. Porfily, Agent for the applicant (*via e-mail*)

encs



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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11159, Morrow County	)	PROPOSING APPROVAL OF
	)	CHANGES IN PLACE OF USE AND
	)	PARTIAL CANCELLATION OF THREE
	)	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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

**Applicant**

WILLOW FARMS, LLC  
MARK ZOLLER  
PO BOX 288  
WASHOUGAL, WA 98671

**Agent**

BILL PORFILY  
PO BOX 643  
STANFIELD, OR 97875

**Findings of Fact**

***Background***

1. On November 29, 2010, Willow Farms, LLC., filed an application to change the places of use under portions of Certificates 53377, 53379, 75806, 76583, 83341, 83342, 83339 and 83340. The Department assigned the application number T-11159.
2. On May 2, 2012, the applicant submitted a new amended application and maps to correctly describe the places of use.
3. On October 23, 2012, the applicant submitted affidavits of partial cancellation of the domestic use under Certificates 53377, 53379 and 75806.
4. On January 28, 2013, the applicant submitted evidence of stock use under Certificates 53377, 53379 and 75806.

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.

5. The portion of the first right and its layered supplemental water rights to be transferred are as follows:

**Certificate:** 53379, issued in the name of Dave Cheney (decree of the Circuit Court of the State of Oregon for Morrow County)

**Use:** IRRIGATION of 11.6 acres and STOCK USE

**Priority Date:** 1892 for Irrigation, 1875 for Stock use

**Rate:** 0.20 cubic foot per second

**Source:** WILLOW CREEK, tributary to the Columbia River

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	7	NE NE	930 FEET SOUTH AND 470 FEET WEST FROM THE NE CORNER OF SECTION 7

**Certificate:** 83341, issued in the name of Willow Farms, LLC. (perfected under Permit G-4050)

**Use:** SUPPLEMENTAL IRRIGATION of 8.2 acres

**Priority Date:** March 27, 1968

**Rate:** 0.10 cubic foot per second; being 0.04 cfs from Cheney Well #2 and 0.10 cfs from New Well in any combination, if available at the original point of appropriation (Cheney Well #2), or its equivalent in case of rotation, measured at the points of appropriation.

**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, 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 WILLOW CREEK BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	17	SE NE	CHENEY WELL#2 - 170 FEET NORTH AND 2370 FEET EAST FROM THE CENTER OF SECTION 17
2 N	23 E	WM	20	SE NE*	NEW WELL - 1330 FEET NORTH AND 1470 FEET EAST THE CENTER OF SECTION 20

\* may actually be in the NE NE, based on distances from the Section corner.

**Certificate:** 83342, issued in the name of Willow Farms, LLC (perfected under Permit G-10135)

**Use:** SUPPLEMENTAL IRRIGATION of 11.6 acres

**Priority Date:** APRIL 4, 1983

**Rate:** 31 gallons per minute (gpm), being 10 gpm from Cheney Well #1, 10 gpm from Cheney Well #2, and 28 gpm from New Well, in any combination, if available at the original points of appropriation (Cheney Well #1 and Cheney Well #2), or its equivalent in case of rotation, measured at the points of appropriation.

**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, 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, provided further that the right allowed wherein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

**Source:** THREE WELLS within the WILLOW CREEK BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	8	SW NW	CHENEY WELL#1 - 2440 FEET SOUTH AND 240 FEET EAST FROM THE NW CORNER OF SECTION 8
2 N	23 E	WM	17	SE NE	CHENEY WELL#2 - 170 FEET NORTH AND 2370 FEET EAST FROM THE CENTER OF SECTION 17
2 N	23 E	WM	20	SE NE*	NEW WELL - 1330 FEET NORTH AND 1470 FEET EAST THE CENTER OF SECTION 20

\* may actually be in the NE NE, based on distances from the Section corner.

**Authorized Places of Use:**

IRRIGATION (IR), SUPPLEMENTAL IRRIGATION (IS) and STOCK								
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)		
						53379 (IR & STOCK)	83341(IS)	83342(IS)
2 N	23 E	WM	17	SE NE	1401	7.6	4.2	7.6
2 N	23 E	WM	17	NW NW	1401	4.0	4.0	4.0
<b>TOTAL:</b>						<b>11.6</b>	<b>8.2</b>	<b>11.6</b>

6. Transfer Application T-11159 proposes to change the place of use of the above described rights to:

IRRIGATION (IR), SUPPLEMENTAL IRRIGATION (IS) and STOCK								
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)		
						53379 (IR & STOCK)	83341(IS)	83342(IS)
2 N	23 E	WM	7	NE SW	1300	6.8	6.8	6.8
2 N	23 E	WM	7	NW SE	1300	4.8	1.4	4.8
<b>TOTAL:</b>						<b>11.6</b>	<b>8.2</b>	<b>11.6</b>

7. The portion of the second right and its layered supplemental water rights to be transferred are as follows:

**Certificate:** 75806, issued in the name of Diamond Properties Investment Co., LLC.

(Decree of the Circuit Court of the State of Oregon for Morrow County)

**Use:** IRRIGATION of 15.6 acres and STOCK USE

**Priority Date:** 1892 for 6.8 acres, 1906 for 8.8 acres and 1884 for Stock Use

**Rate:** 0.26 cubic foot per second; being 0.11 cfs with priority of 1892 and 0.15 cfs with priority of 1906, if available at the original point of diversion: Ewing, Highline, Desertland, Kirtzler, Underground and Murphy ditches, or its equivalent in case of rotation, measured at the point of diversion.

**Source:** Willow Creek, tributary to the Columbia River

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	7	NE SE*	930 FEET SOUTH AND 470 FEET WEST FROM THE NE CORNER OF SECTION 7

\* POD location is actually in the NE NE of Section 7. The certificate contains a scrivener's error (omission of NE NE of Section 7 in the POD listing, which should have been carried forward from previous Certificate 53378).

**Certificate:** 83341, issued in the name of Willow Farms, LLC. (perfected under Permit G-4050)

**Use:** Supplemental Irrigation of 11.1 acres

**Priority Date:** March 27, 1968

**Rate:** 0.14 cubic foot per second; being 0.05 cfs from Cheney Well #2 and 0.14 cfs from New Well in any combination, if available at the original point of appropriation (Cheney Well #2), or its equivalent in case of rotation, measured at the points of appropriation.

**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, 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 WILLOW CREEK BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	17	SE NE	CHENEY WELL#2 - 170 FEET NORTH AND 2370 FEET EAST FROM THE CENTER OF SECTION 17
2 N	23 E	WM	20	SE NE*	NEW WELL - 1330 FEET NORTH AND 1470 FEET EAST THE CENTER OF SECTION 20

\* may actually be in the NE NE, based on distances from the Section corner.

**Certificate:** 83342, issued in the name of Willow Farms, LLC, (perfected under Permit G-10135)

**Use:** Supplemental Irrigation of 15.6 acres

**Priority Date:** APRIL 4, 1983

**Rate:** 41 gallons per minute (gpm), being 14 gpm from Cheney Well #1, 13 gpm from Cheney Well #2, and 38 gpm from New Well, in any combination, if available at the original points of appropriation (Cheney Well #1 and Cheney Well #2), or its equivalent in case of rotation, measured at the points of appropriation.

**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, 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, provided further that the right allowed wherein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

**Source:** THREE WELLS within the WILLOW CREEK BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	8	SW NW	CHENEY WELL#1 - 2440 FEET SOUTH AND 240 FEET EAST FROM THE NW CORNER OF SECTION 8
2 N	23 E	WM	17	SE NE	CHENEY WELL#2 - 170 FEET NORTH AND 2370 FEET EAST FROM THE CENTER OF SECTION 17
2 N	23 E	WM	20	SE NE*	NEW WELL - 1330 FEET NORTH AND 1470 FEET EAST THE CENTER OF SECTION 20

\* may actually be in the NE NE, based on distances from the Section corner.

**Authorized Places of Use:**

IRRIGATION (IR) AND SUPPLEMENTAL IRRIGATION (IS) & STOCK								
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)		
						75806 (IR) and Stock	83341(IS)	83342(IS)
2 N	23 E	WM	17	NE NE	1401	2.5 (1906)	0.6	2.5
2 N	23 E	WM	17	NW NE	1401	6.3 (1906)	4.0	6.3
2 N	23 E	WM	17	SW NE	1401	5.5 (1892)	5.5	5.5
2 N	23 E	WM	17	SE NE	1401	0.5 (1892)	0.2	0.5
2 N	23 E	WM	17	NE NW	1401	0.8 (1892)	0.8	0.8
<b>TOTAL:</b>						<b>15.6</b>	<b>11.1</b>	<b>15.6</b>

8. Transfer Application T-11159 proposes to change the place of use of the above described rights to:

IRRIGATION (IR) AND SUPPLEMENTAL IRRIGATION (IS) & STOCK								
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)		
						75806 (IR) and Stock	83341(IS)	83342(IS)
2 N	23 E	WM	7	NW SE	1300	8.8 (1906)	5.1	8.8
2 N	23 E	WM	7	NW SE	1300	2.3 (1892)	1.5	2.3
2 N	23 E	WM	7	SW SE	1300	2.8 (1892)	2.8	2.8
2 N	23 E	WM	17	NE NW	1401	0.8 (1892)	0.8	0.8
2 N	23 E	WM	17	NW NW	1401	0.2 (1892)	0.2	0.2
2 N	23 E	WM	17	SE NW	1401	0.7 (1892)	0.7	0.7
<b>TOTAL:</b>						<b>15.6</b>	<b>11.1</b>	<b>15.6</b>

9. The portion of the third right and its layered supplemental water rights to be transferred are as follows:

**Certificate:** 76583, issued in the name of David Cheney (decree of the Circuit Court of the State of Oregon for Morrow County)

**Use:** Irrigation of 22.9 acres

**Priority Date:** 1894

**Rate:** 0.38 cubic foot per second

**Source:** Willow Creek, tributary to the Columbia River

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	20	SE NE	1756 FEET SOUTH AND 1115 FEET WEST FROM THE NE CORNER OF SECTION 20

**Certificate:** 83339, issued in the name of Willow Farms, LLC, (perfected under Permit G-2702)

**Use:** Supplemental Irrigation of 17.7 acres

**Priority Date:** June 8, 1964

**Rate:** 0.09 cubic foot per second; in any combination from either well, if available at the old point of appropriation (Hynd Well #1: SE¼ SE¼, T 2 N, R233, W.M.; 1950 feet South and 4820 feet east from the W¼ Corner of Section 17), or its equivalent in case of rotation, measured at the points of appropriation.

**Source:** Two Wells within the Willow Creek Basin

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	17	SE NE	CHENEY WELL#2 - 170 FEET NORTH AND 2370 FEET EAST FROM THE CENTER OF SECTION 17
2 N	23 E	WM	20	SE NE*	NEW WELL - 1330 FEET NORTH AND 1470 FEET EAST FROM THE CENTER OF SECTION 20

\* may actually be in the NE NE, based on distances from the Section corner.

**Certificate:** 83340, issued in the name of Willow Farms, LLC, (perfected under Permit G-4021)

**Use:** Supplemental Irrigation of 4.0 acres

**Priority Date:** MARCH 8, 1968

**Rate:** 0.04 cubic foot per second; being 0.03 cfs from Cheney Well #2 and 0.04 cfs from New Well in any combination from the wells, if available at the original point of appropriation, Hynd Well #2, located in the NE¼ NE¼ of Section 20, T2N, R23E, WM: 3950 feet south and 4920 feet east from the W¼ Corner of Section 17, or its equivalent in case of rotation, measured at the points of appropriation.

**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, 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

**Source:** Two Wells within the Willow Creek Basin

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	17	SE NE	CHENEY WELL#2 - 170 FEET NORTH AND 2370 FEET EAST FROM THE CENTER OF SECTION 17
2 N	23 E	WM	20	SE NE*	NEW WELL - 1330 FEET NORTH AND 1470 FEET EAST THE CENTER OF SECTION 20

\* may actually be in the NE NE, based on distances from the Section corner.

**Authorized Places of Use:**

IRRIGATION (IR) AND SUPPLEMENTAL IRRIGATION (IS)								
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)		
						76583 (IR)	83339(IS)	83340(IS)
2 N	23 E	WM	16	NW SW	1602	0.7	--	--
2 N	23 E	WM	16	SW SW	1602	0.9	--	--
2 N	23 E	WM	16	SW SW	1602	3.5	3.5	3.5
2 N	23 E	WM	17	NE SE	1602	3.8	3.8	--
2 N	23 E	WM	17	NE SE	1602	0.7	--	--
2 N	23 E	WM	17	NW SE	1602	5.1	5.1	--
2 N	23 E	WM	17	SW SE	1602	2.1	2.1	--
2 N	23 E	WM	17	SE SE	1602	2.7	2.7	--
2 N	23 E	WM	17	SE SE	1602	2.9	--	--
2 N	23 E	WM	21	NW NW	1600	0.5	0.5	0.5
<b>TOTAL:</b>						<b>22.9</b>	<b>17.7</b>	<b>4.0</b>

10. Transfer Application T-11159 proposes to change the place of use of the above described rights to:

IRRIGATION (IR) AND SUPPLEMENTAL IRRIGATION (IS)								
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)		
						76583 (IR)	83339(IS)	83340(IS)
2 N	23 E	WM	7	SE SW	1300	6.1	6.1	--
2 N	23 E	WM	7	SW SE	1300	7.6	7.6	--
2 N	23 E	WM	7	SW SE	1300	5.2	--	--
2 N	23 E	WM	18	SW SE	2200	4.0	4.0	4.0
<b>TOTAL:</b>						<b>22.9</b>	<b>17.7</b>	<b>4.0</b>

11. The portion of the fourth right and its layered supplemental water rights to be transferred are as follows:

**Certificate:** 53377, issued in the name of David Cheney (decree of the Circuit Court of the State of Oregon for Morrow County)

**Use:** Irrigation of 2.8 acres and Stock use

**Priority Date:** 1897

**Rate:** 0.05 cubic foot per second, if available at the original point of diversion: NE¼ NE¼ of Section 20, T2N, R23E, WM (Ewing Ditch).



**Source:** Willow Creek, tributary to the Columbia River

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	7	NE NE	930 FEET SOUTH AND 470 FEET WEST FROM THE NE CORNER OF SECTION 7
2 N	23 E	WM	20	NE NE	EWING DITCH

**Certificate:** 83341, issued in the name of Willow Farms, LLC, (perfected under Permit G-4050)

**Use:** Supplemental Irrigation of 2.8 acres

**Priority Date:** March 27, 1968

**Rate:** 0.03 cubic foot per second; being 0.01 cfs from Cheney Well #2 and 0.03 cfs from New Well in any combination, if available at the original point of appropriation (Cheney Well #2), or its equivalent in case of rotation, measured at the points of appropriation.

**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, 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 WILLOW CREEK BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	17	SE NE	CHENEY WELL#2 - 170 FEET NORTH AND 2370 FEET EAST FROM THE CENTER OF SECTION 17
2 N	23 E	WM	20	SE NE*	NEW WELL - 1330 FEET NORTH AND 1470 FEET EAST THE CENTER OF SECTION 20

\* may actually be in the NE NE, based on distances from the Section corner.

**Certificate:** 83342, issued in the name of Willow Farms, LLC, (perfected under Permit G-10135)

**Use:** Supplemental Irrigation of 2.8 acres

**Priority Date:** APRIL 4, 1983

**Rate:** 7 gallons per minute (gpm), being 2 gpm from Cheney Well #1, 2 gpm from Cheney Well #2, and 7 gpm from New Well, in any combination, if available at the original points of appropriation (Cheney Well #1 and Cheney Well #2), or its equivalent in case of rotation, measured at the points of appropriation.

**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, 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, provided further that the right allowed wherein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

**Source:** THREE WELLS within the WILLOW CREEK BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	8	SW NW	CHENEY WELL#1 - 2440 FEET SOUTH AND 240 FEET EAST FROM THE NW CORNER OF SECTION 8
2 N	23 E	WM	17	SE NE	CHENEY WELL#2 - 170 FEET NORTH AND 2370 FEET EAST FROM THE CENTER OF SECTION 17
2 N	23 E	WM	20	SE NE*	NEW WELL - 1330 FEET NORTH AND 1470 FEET EAST THE CENTER OF SECTION 20

\* may actually be in the NE NE, based on distances from the Section corner.

**Authorized Places of Use:**

IRRIGATION (IR) AND SUPPLEMENTAL IRRIGATION (IS) & STOCK								
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)		
						53377 (IR) and Stock	83341(IS)	83342(IS)
2 N	23 E	WM	8	SE SW	1401	2.8	2.8	2.8
<b>TOTAL:</b>						<b>2.8</b>	<b>2.8</b>	<b>2.8</b>

12. Transfer Application T-11159 proposes to change the place of use of the above described rights to:

IRRIGATION (IR) AND SUPPLEMENTAL IRRIGATION (IS) & STOCK								
Twp	Rng	Mer	Sec	Q - Q	TL	CERTIFICATE (ACRES)		
						53377 (IR) and Stock	83341(IS)	83342(IS)
2 N	23 E	WM	18	SW SE	2200	2.8	2.8	2.8
<b>TOTAL:</b>						<b>2.8</b>	<b>2.8</b>	<b>2.8</b>

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

**Certificate:** 83339, issued in the name of Willow Farms, LLC, (perfected under Permit G-2702)

**Use:** Irrigation of 2.5 acres

**Priority Date:** June 8, 1964

**Rate:** 0.01 cubic foot per second; in any combination from either well, if available at the old point of appropriation (Hynd Well #1: SE¼ SE¼, T 2 N, R233, W.M.; 1950 feet South and 4820 feet east from the W¼ Corner of Section 17), or its equivalent in case of rotation, measured at the points of appropriation.

**Source:** Two Wells within the Willow Creek Basin

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	17	SE NE	CHENEY WELL#2 - 170 FEET NORTH AND 2370 FEET EAST FROM THE CENTER OF SECTION 17
2 N	23 E	WM	20	SE NE*	NEW WELL - 1330 FEET NORTH AND 1470 FEET EAST FROM THE CENTER OF SECTION 20

\* may actually be in the NE NE, based on distances from the Section corner.

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q - Q	TL	Acres
2 N	23 E	WM	17	NW SE	1602	2.5

14. Transfer Application T-11159 proposes to change the place of use of the above described right to:

Twp	Rng	Mer	Sec	Q - Q	TL	Acres
2 N	23 E	WM	18	SW SE	2200	2.5

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

**Certificate:** 83340, issued in the name of Willow Farms, LLC, (perfected under Permit G-4021)

**Use:** Irrigation of 7.3 acres

**Priority Date:** March 8, 1968

**Rate:** 0.08 cubic foot per second; being 0.05 cfs from Cheney Well #2 and 0.08 cfs from New Well in any combination from the wells, if available at the original point of appropriation, Hynd Well #2, located in the NE¼ NE¼ of Section 20, T2N, R23E, WM: 3950 feet south and 4920 feet east from the W¼ Corner of Section 17, or its equivalent in case of rotation, measured at the points of appropriation.

**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, 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

**Source:** Two Wells within the Willow Creek Basin

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	17	SE NE	CHENEY WELL#2 - 170 FEET NORTH AND 2370 FEET EAST FROM THE CENTER OF SECTION 17
2 N	23 E	WM	20	SE NE*	NEW WELL - 1330 FEET NORTH AND 1470 FEET EAST THE CENTER OF SECTION 20

\* may actually be in the NE NE, based on distances from the Section corner.

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q - Q	TL	Acres
2 N	23 E	WM	20	NW NE	1602	7.3

16. Transfer Application T-11159 proposes to change the place of use of the above described right to:

Twp	Rng	Mer	Sec	Q - Q	TL	Acres
2 N	23 E	WM	18	SW SE	2200	7.3

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

**Certificate:** 83342, issued in the name of Willow Farms, LLC, (perfected under Permit G-10135)

**Use:** Irrigation of 83.9 acres

**Priority Date:** APRIL 4, 1983

**Rate:** 220 gallons per minute (gpm), being 73 gpm from Cheney Well #1, 72 gpm from Cheney Well #2, and 205 gpm from New Well, in any combination, if available at the original points of appropriation (Cheney Well #1 and Cheney Well #2), or its equivalent in case of rotation, measured at the points of appropriation.

**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, 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, provided further that the right allowed wherein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

**Source:** THREE WELLS within the WILLOW CREEK BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	23 E	WM	8	SW NW	CHENEY WELL#1 - 2440 FEET SOUTH AND 240 FEET EAST FROM THE NW CORNER OF SECTION 8
2 N	23 E	WM	17	SE NE	CHENEY WELL#2 - 170 FEET NORTH AND 2370 FEET EAST FROM THE CENTER OF SECTION 17
2 N	23 E	WM	20	SE NE*	NEW WELL - 1330 FEET NORTH AND 1470 FEET EAST THE CENTER OF SECTION 20

\* may actually be in the NE NE, based on distances from the Section corner.

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q - Q	TL	Acres
2 N	23 E	WM	8	SW NW	1201	9.8
2 N	23 E	WM	8	NW SW	1201	3.2
2 N	23 E	WM	8	NW SW	1401	0.6
2 N	23 E	WM	8	SW SE	1401	1.2
2 N	23 E	WM	18	NE NE	2101	2.0
2 N	23 E	WM	18	SE NE	2101	14.4
2 N	23 E	WM	18	NE NW	2101	10.0
2 N	23 E	WM	18	NW NW	2101	4.5
2 N	23 E	WM	18	SW NW	2101	0.4
2 N	23 E	WM	18	SE NW	2101	7.7
2 N	23 E	WM	18	NE SE	2201	15.2
2 N	23 E	WM	18	SE SE	2201	14.9
<b>TOTAL:</b>						<b>83.9</b>

18. Transfer Application T-11159 proposes to change the place of use of the above described right to:

Twp	Rng	Mer	Sec	Q - Q	TL	Acres
2 N	23 E	WM	7	SW NE	1300	23.6
2 N	23 E	WM	7	SE NW	1300	7.3

<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>Q - Q</b>	<b>TL</b>	<b>Acres</b>
2 N	23 E	WM	7	NE SW	1300	0.8
2 N	23 E	WM	7	NW SE	1300	5.3
2 N	23 E	WM	18	SW NE	2101	3.2
2 N	23 E	WM	18	SE NW	2101	5.9
2 N	23 E	WM	18	NE SW	2100	2.7
2 N	23 E	WM	18	NW SE	2200	0.4
2 N	23 E	WM	18	SW SE	2200	11.2
2 N	23 E	WM	18	SE SE	2201	9.9
2 N	23 E	WM	19	NE NE	1602	8.3
2 N	23 E	WM	19	NW NE	1602	5.3
<b>TOTAL:</b>						<b>83.9</b>

19. Notice of the application for transfer was published on December 7, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
20. On July 20, 2012, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11359 to the applicant. The draft Preliminary Determination set forth a deadline of August 18, 2012, for the applicant to respond. On September 6, 2012, Bill Porfily, agent for the applicant submitted correspondence via e-mail requesting the Department to proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer. In addition, the applicant has requested additional time in which to complete the transfer in order to comply with ODFW's fish screening requirements. The applicant has requested a completion date of October 1, 2016, which the Department considers reasonable. The completion date has been adjusted to October 1, 2016.

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

21. Water has been used within the five-year period prior to submittal of the transfer application 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.
22. Diversion structures, ditches, wells, 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-11159.
23. The proposed changes would not result in enlargement of the rights.
24. The proposed changes would not result in injury to other water rights.

**Partial Cancellation of Water Rights**

25. On October 23, 2012, affidavits certifying that domestic use under the transferred portions of the following water rights has been abandoned, but stock use and irrigation uses are being retained. Mark Zoller requested cancellation of just the domestic use (with no rate or volume of water to be cancelled). The portions of the rights for which the domestic use will be cancelled are as follows:

The portion of Certificate 53377:

DOMESTIC USE				
Twp	Rng	Mer	Sec	Q - Q
2 N	23 E	WM	8	SE SW

The portion of Certificate 53379:

DOMESTIC USE				
Twp	Rng	Mer	Sec	Q - Q
2 N	23 E	WM	17	SE NE
2 N	23 E	WM	17	NW NW

The portion of Certificate 75806:

DOMESTIC USE				
Twp	Rng	Mer	Sec	Q - Q
2 N	23 E	WM	17	NE NE
2 N	23 E	WM	17	NW NE
2 N	23 E	WM	17	SW NE
2 N	23 E	WM	17	SE NE
2 N	23 E	WM	17	NE NW

**Determination and Proposed Action**

The changes in place of use proposed in Transfer Application T-11159 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the abandoned domestic uses under these portions of the rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved and the abandoned portions of the rights will be cancelled.

*If Transfer Application T-11159 is approved, the final order will include the following:*

- 1. The changes in place of use proposed in application T-11159 are approved and the abandoned domestic portions of the rights are cancelled.*

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 53377, 53379, 75806, 76583, 83339, 83340, 83341 and 83342 and any related decree.*
3. *Water right certificates 53377, 53379, 75806, 76583, 83339, 83340, 83341 and 83342, are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
4. *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 or appropriation. The water user shall maintain the meters or measuring devices in good working order. 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.*
5. *The former place of use of the transferred rights shall no longer receive water under the rights.*
6. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2016**. 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.*
7. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 7 day of February, 2013.

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

This Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or [Ken.D.Dowden@wrdd.state.or.us](mailto:Ken.D.Dowden@wrdd.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.