



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department
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May 2, 2013

VIA E-MAIL TO: jimr@fms.turlock.com & bporfily@myl80.net

Applicant

IRON HORSE ACRES, LLC
C/O JIM REDMAN/JEFF HILLBERG
301 EAST MAIN STREET
TURLOCK, CA 95380-4537

Agent

WILLIAM PORFILY
P.O. BOX 643
STANFIELD, OR 97875

SUBJECT: Water Right Transfer Application T-11530

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11530. 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 503-986-0858 or Susan.M.Douthit@wr.d.state.or.us if I may be of assistance.

Sincerely,

Susan Douthit
Transfer and Conservation Section

cc:

T-11530

Tony G. Justus, District 5 Watermaster (via e-mail)

William I. Porfily, Agent for the applicant (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-11530, Umatilla County)	PROPOSING APPROVAL OF A
)	CHANGE IN 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.

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Findings of Fact

1. On February 6, 2013, IRON HORSE ACRES, LLC, filed an application to change the place of use under Certificate 49211. The Department assigned the application number T-11530.
2. Notice of the application for transfer was published on February 12, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. The portion of the right to be transferred is as follows:
 - Certificate:** 49211 in the name of RONALD R. REESER (perfected under Permit G-6361)
 - Use:** IRRIGATION of 11.0 ACRES
 - Priority Date:** SEPTEMBER 8, 1975
 - Rate:** 0.124 CUBIC FOOT PER SECOND (cfs); being 0.064 cfs from Well No. 1 and 0.06 cfs from Well No. 2.
 - 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 cfs, 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, provided further that in the event that use of the wells under this right unduly interfere with or cause excessive water level declines in wells of earlier priority in the

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.

area, it may become necessary to materially reduce or terminate ground withdrawals from the wells under this permit..

Source: WELL NO. 1 and WELL NO. 2 within the BIRCH CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	32 E	WM	7	SW NE	WELL NO. 2: 230 FEET NORTH AND 30 FEET EAST FROM THE CENTER OF SECTION 7
1 S	32 E	WM	8	SE NW	WELL NO. 1: 600 FEET NORTH AND 300 FEET WEST FROM THE CENTER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	32 E	WM	7	SE NE	0.7
1 S	32 E	WM	7	SW SW	0.5
1 S	32 E	WM	7	NE SE	1.4
1 S	32 E	WM	7	NW SE	0.8
1 S	32 E	WM	7	SW SE	0.5
1 S	32 E	WM	7	SE SE	2.1
1 S	32 E	WM	8	SW NW	0.5
1 S	32 E	WM	8	NW SW	2.1
1 S	32 E	WM	8	SW SW	2.4
Total Acres:					11.0

- Transfer Application T-11530 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	32 E	WM	7	SW SW	6.9
1 S	32 E	WM	7	SE SW	4.1
Total Acres:					11.0

Transfer Review Criteria (OAR 690-380-4010)

- Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-11530.
- The proposed change would not result in enlargement of the right if conditioned so that the end gun serving the 11.0 authorized acres delineated in Finding of Fact #4 is removed.
- The proposed change would not result in injury to other water rights.

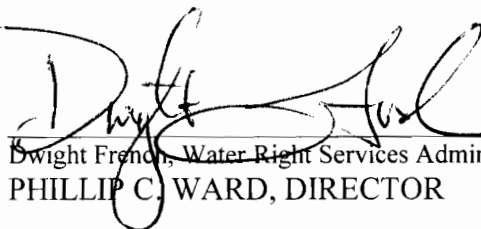
Determination and Proposed Action

The change in place of use proposed in Transfer Application T-11530 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11530 is approved, the final order will include the following:

- 1. The change in place of use proposed in Transfer Application T-11530 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 Certificate 49211 and any related decree.*
- 3. Water right certificate 49211 is cancelled. A new certificate will be issued describing those portions of the right not affected by this transfer.*
- 4. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.*
- 5. The end gun, formerly serving the "from" lands as identified in Finding of Fact #4 shall be removed.*
- 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, 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, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 2 day of May, 2013.


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

This Preliminary Determination was prepared by Susan Douthit. If you have questions about this document please contact Susan at 503-986-0858 or Susan.M.Douthit@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.