



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department
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725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
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December 27, 2013

VIA E-MAIL

Applicant

Hale Farms, LLC
Attn. – Craig Reeder
73120 Hwy 207
Echo, OR 97826

Agents

GSI Water Solutions, Inc.
Attn. – Molly Reid
8019 W. Quinault Ave, Suite 201
Kennewick, WA 99336

Stoel Rives LLP

Attn. – David E. Filippi/Kirk Maag
900 SW Fifth Ave., Suite 2600
Portland, OR 97204

SUBJECT: Water Right Transfer Application T-11473

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11473. 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.

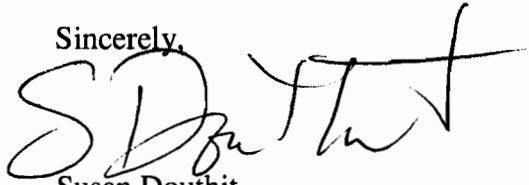
A public notice is being published in the Department's weekly publication. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest 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 contact me at 503-986-0858 or Susan.M.Douthit@wrд.state.or.us if I may be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "S Douthit". The signature is written in a cursive, flowing style with a large initial "S" and a long horizontal stroke extending to the right.

Susan Douthit
Transfer and Conservation Section

cc: T-11473
District 5 Watermaster (*via e-mail*)
Mike Ladd, NC Regional Manager (*via e-mail*)

encs

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

Source: A WELL within the STAGE GULCH BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	30 E	WM	9	NW SW	520 FEET SOUTH AND 940 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	9	SW NW	0.8
3 N	30 E	WM	9	SE NW	0.4
3 N	30 E	WM	9	NE SW	2.3
3 N	30 E	WM	9	SW SW	32.0
3 N	30 E	WM	9	SE SW	0.8
Total:					36.3

3. Transfer Application T-11473 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	8	NW NE	31.9
3 N	30 E	WM	8	SW NE	4.4
Total:					36.3

4. The second right to be transferred is as follows:

Certificate: 76273 in the name of LEON A. REESE (perfected under Permit G-5957)

Use: IRRIGATION of 70.8 ACRES

Priority Date: NOVEMBER 30, 1973

Rate: 0.88 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-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.

Source: A WELL within the STAGE GULCH BASIN

Authorized Point(s) of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	30 E	WM	9	NW SW	520 FEET SOUTH AND 940 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	9	SW NW	9.5
3 N	30 E	WM	9	SE NW	12.4
3 N	30 E	WM	9	NE SW	28.6
3 N	30 E	WM	9	NW SW	19.2
3 N	30 E	WM	9	SE SW	1.1
Total:					70.8

5. Transfer Application T-11473 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	8	NE NE	11.4
3 N	30 E	WM	8	SW NE	27.5
3 N	30 E	WM	8	SE NE	31.9
Total:					70.8

6. The third right to be transferred is as follows:

Certificate: 84116 in the name of LEON REESE (perfected under Permit U-680)

Use: IRRIGATION of 20.55 ACRES

Priority Date: SEPTEMBER 16, 1954

Rate: 0.25 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-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.

Source: A WELL within the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	30 E	WM	9	NW SW	2068 FEET NORTH AND 911 FEET EAST FROM THE SW CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	9	NE SW	0.87
3 N	30 E	WM	9	NW SW	19.68
Total:					20.55

7. Transfer Application T-11473 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	8	NE NE	20.55

8. Permit S-54773 exists on portions of the proposed place of use as delineated in Findings of Fact #3, #5 and #7.
9. Notice of the application for transfer was published on September 18, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On November 22, 2013, the Department e-mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11473 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 30, 2013, for the applicant to respond. The applicant requested the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate the applicant is authorized to pursue the transfer.
11. 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 the rights are subject to forfeiture under ORS 540.610.
12. 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-11473.
13. The primary irrigation water rights involved in this transfer have varying duty limitations associated with the primary irrigation use on the lands described in Findings of Fact #3, #5 and #7. The primary irrigation use of these rights, in combination with all other rights appurtenant to the places of use, are limited to the maximum duty (listed in acre-feet per acre) for each time period as described in the table below:

Water Right	Period of Use			
	3/1 – 4/14	4/15 – 9/30	10-1 – 10/31	11/1 – 2/29
52824	3.0 af/ac	3.0 af/ac	3.0 af/ac	--
76273	3.0 af/ac	3.0 af/ac	3.0 af/ac	--
84116	3.0 af/ac	3.0 af/ac	3.0 af/ac	--
Permit S-54773	4.5 af/ac	3.0 af/ac	4.5 af/ac	1.5 af/ac

14. There is no intention to “layer” the primary water rights so as to preclude the future potential of using the primary water rights separately. Rather, the intention is to maintain the primary irrigation use for each of the water rights. Therefore, should the water right holder at some time in the future petition to use the water rights separately, an analysis of whether a separation of the water rights would result in enlargement or injury shall consider that the water rights originated (and were perfected) as separate, distinct primary water rights.
15. The groundwater rights affected by this order shall be further limited to the amount of water annually allocated to the relevant water right(s) in the Stage Gulch Critical Ground Water Area.
16. 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-11473 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-11473 is approved, the final order will include the following:

17. *Temporary Transfer T-11092 is terminated upon issuance of this Final Order.*
18. *The change in place of use proposed in Transfer Application T-11473 is approved.*
19. *The maximum duty during the period of allowed use for all primary irrigation water rights appurtenant to the lands described in Findings of Fact #3, #5 and #7 is limited to no more than the maximum quantities listed below:*

Water Right	Period of Use			
	3/1 – 4/14	4/15 – 9/30	10-1 – 10/31	11/1 – 2/29
52824	3.0	3.0	3.0	--
76273	3.0	3.0	3.0	--
84116	3.0	3.0	3.0	--
Permit S-54773	4.5	3.0	4.5	1.5

20. *If the water right holder petitions to use the water rights separately, an analysis of whether a separation of the water rights would result in enlargement or injury shall consider that the water rights originated (and were perfected) as separate, distinct primary irrigation water rights.*
21. *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 52824, 76273 and 84116 and any related decree.*
22. *The groundwater rights affected by this order are limited to the amount of water annually allocated to the relevant water rights in the Stage Gulch Critical Groundwater Area, in accordance with OAR 690-507-0750 et seq.*
23. *Certificates 52824, 76273 and 84116 are cancelled.*
24. *The former place of use of the transferred right shall no longer receive water under the rights.*
25. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2017**. 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.*
26. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 27 day of December, 2013.


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

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.

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