



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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February 27, 2014

JAMES VANDERSLOOT
84733 TELEPHONE POLE RD
MILTON-FREEWATER, OR 97862

SUBJECT: Water Right Transfer Application T-11652

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11652. 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 Sarah.A.Henderson@wrp.state.or.us if I may be of assistance.

Sincerely,

Sarah Henderson
Transfer Specialist
Transfer and Conservation Section

cc: T-11652
Tony Justus, District 5 Watermaster (via e-mail)
Bill Neve, Agent for the applicant (via e-mail)
Terry Sprecher, CWRE #445 (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-11652, Umatilla County)	PROPOSING APPROVAL OF A
)	CHANGE IN POINT OF
)	APPROPRIATION AND AN
)	ADDITIONAL POINT OF
)	APPROPRIATION

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

JAMES VANDERSLOOT
84733 TELEPHONE POLE RD
MILTON-FREEWATER, OR 97862

Findings of Fact

1. On August 15, 2013, JAMES VANDERSLOOT filed an application to change the point of appropriation under Certificate 28605, and add a point of appropriation under Certificate 40813. The Department assigned the application number T-11652.
2. Notice of the application for transfer was published on August 27, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 2, 2014, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11652 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 2, 2014, 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.
4. The portion of the first right to be transferred is as follows:
Certificate: 28605 in the name of HAROLD STILLER (perfected under Permit G-1114)
Use: IRRIGATION of 19.2 ACRES
Priority Date: AUGUST 25, 1958
Rate: 0.157 CUBIC FOOT PER SECOND

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.
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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 a diversion of ONE-EIGHTIETH of one cubic foot per second per acre, 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 COLUMBIA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	35 E	WM	25	SE NE	985 FEET SOUTH AND 25 FEET WEST FROM THE NE CORNER OF SENE OF SECTION 25

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	36 E	WM	30	SW NW	19.2

5. Transfer Application T-11652 proposes to change the authorized point of appropriation approximately 691 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	36 E	WM	30	SW NW	WELL 3: 650 FEET SOUTH AND 610 FEET EAST FROM THE NE CORNER OF THE SE NE OF SECTION 25

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

Certificate: 40813 in the name of HAROLD STILLER (perfected under Permit G-4080)

Use: SUPPLEMENTAL IRRIGATION of 19.2 ACRES

Priority Date: APRIL 10, 1968

Rate: 0.221 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year; provided further that the right allowed herein 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 and shall be further limited to appropriation of water only to the extent that it does not impair or substantially interfere with existing surface water rights of others, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: A WELL within the WALLA WALLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	36 E	WM	30	SW NW	310 FEET NORTH AND 380 FEET EAST FROM THE W1/4 CORNER OF SECTION 30

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	36 E	WM	30	SW NW	19.2

7. Transfer Application T-11652 proposes an additional point of appropriation approximately 362 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	36 E	WM	30	SW NW	WELL 3: 650 FEET SOUTH AND 610 FEET EAST FROM THE NE CORNER OF THE SE NE OF SECTION 25

Transfer Review Criteria (OAR 690-380-4010)

8. 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 rights are subject to forfeiture under ORS 540.610.
9. 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-11652.
10. The proposed change would not result in enlargement of the rights.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

Determination and Proposed Action


The change in point of appropriation and additional point of appropriation proposed in Transfer Application T-11652 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-11652 is approved, the final order will include the following:

1. *The change in point of appropriation and additional point of appropriation proposed in Transfer Application T-11652 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 28605 and 40813 and any related decree.*
3. *Water right certificates 28605 and 40813 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 and additional point of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation. Use from any combination of the wells should not exceed one-eightieth of cubic foot per second per acre and 3.0 acre feet per acre.*
5. *The proposed well shall be constructed so that it only develops water from the shallow alluvial aquifer overlaying the basalts.*
6. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2015**. 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 27 day of February, 2014.


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

This Preliminary Determination was prepared by Sarah Henderson. If you have questions about the information in this document, you may reach me at 503-986-0890 or Sarah.A.Henderson@ wrd.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.