



# Oregon

John A. Kitzhaber, MD, Governor

## Water Resources Department

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March 25, 2014

VIA E-MAIL

Sherwin & Krista Koehn  
27239 Middle Bridge Ln  
Baker City, OR 97814

SUBJECT: Water Right Transfer Application T-11674

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11674. 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 [Tracy.L.Fox@wr.d.state.or.us](mailto:Tracy.L.Fox@wr.d.state.or.us) or 503 986-0827 if I may be of assistance.

Sincerely,

Ms. Tracy Fox  
Transfer Specialist  
Transfer and Conservation Section

cc: T-11674  
Rick M. Lusk, District 8 Watermaster (*via e-mail*)  
Nancy Rorick, CWRE and Agent for the applicant (*via e-mail*)  
Phillips-Ingle Ditch Improvement District c/o Steve Radle, President

enclosure

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11674, Baker County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACE OF USE

**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.

**Applicant**

SHERWIN AND KRISTA KOEHN  
27239 MIDDLE BRIDGE LANE  
BAKER CITY, OR 97814

**Findings of Fact**

1. On October 11, 2013, SHERWIN AND KRISTA KOEHN filed an application to change the place of use under Certificates 74005, 74008, and 74009. The Department assigned the application number T-11674.
2. Notice of the application for transfer was published on October 22, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 3, 2014, the Evidence of Use Affidavit was returned to the applicant for completion. The completed Affidavit was returned to the Department on February 11, 2014.
4. On February 3, 2014, the applicant's agent, also the CWRE, submitted revised transfer application tables and maps.
5. On February 24, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11674 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 24, 2014, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.

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

**Certificate:** 74005 in the name of PHILLIPS-INGLE DITCH IMPROVEMENT DISTRICT C/O MIKE MILLER, PRESIDENT, POWDER RIVER RANCHES (perfected under Permit S-3859)

**Use:** PRIMARY IRRIGATION OF 45.5 ACRES AND SUPPLEMENTAL IRRIGATION OF 5.5 ACRES

**Priority Date:** JUNE 18, 1917

**Rate:** 0.56 CUBIC FOOT PER SECOND FROM DIRECT FLOW AND 7.28 ACRE FEET FROM ECHO LAKE RESERVOIR AND 4.13 ACRE FEET FROM TRAVERSE LAKE RESERVOIR

**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 for each acre irrigated under each tract from direct flow, or its equivalent in case of rotation, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

**Sources:** GOOSE CREEK, WEST EAGLE CREEK, TRAVERSE LAKE RESERVOIR AND ECHO LAKE RESERVOIR, tributaries to the POWDER RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	43 E	WM	21	NE NE	TRAVERSE LAKE RES: 1067 FEET SOUTH AND 279 FEET WEST FROM THE NE CORNER OF SECTION 21
5 S	43 E	WM	21	SW NW	ECHO LAKE RES: 2713 FEET NORTH AND 1032 FEET EAST FROM THE SW CORNER OF SECTION 21
6 S	43 E	WM	8	SE SE	PHILLIPS & INGLE DITCH (WEST EAGLE CREEK): 1249 FEET NORTH AND 477 FEET WEST FROM THE SE CORNER OF SECTION 8
8 S	43 E	WM	4	NE SE	PHILLIPS & INGLE DITCH (GOOSE CREEK): 1703 FEET NORTH AND 482 FEET WEST FROM THE SE CORNER OF SECTION 4
8 S	43 E	WM	20	SW SW	PHILLIPS & INGLE #2 DITCH (GOOSE CREEK): 1175 FEET NORTH AND 3985 FEET WEST FROM THE SE CORNER OF SECTION 20

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
8 S	43 E	WM	19	SW SW	4	10.2
8 S	43 E	WM	19	SE SW		8.9
8 S	43 E	WM	19	SW SE		5.5
8 S	43 E	WM	30	NW NE		5.8
8 S	43 E	WM	30	SW NE		1.0
8 S	43 E	WM	30	NE NW		5.3
8 S	43 E	WM	30	NW NW	1	0.9
8 S	43 E	WM	30	SE NW		7.9
Total:						45.5

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	43 E	WM	19	SW SE	5.5

7. Transfer Application T-11674 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	43 E	WM	30	SW NE	16.0
8 S	43 E	WM	30	NE NW	7.4
8 S	43 E	WM	30	SE NW	22.1
Total:					45.5

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	43 E	WM	30	SE NW	5.5

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

**Certificate:** 74008 in the name of PHILLIPS-INGLE DITCH IMPROVEMENT DISTRICT C/O MIKE MILLER, PRESIDENT, POWDER RIVER RANCHES (perfected under Permit S-3939)

**Use:** SUPPLEMENTAL IRRIGATION of 45.5 ACRES

**Priority Date:** SEPTEMBER 18, 1917, FOR LOOKING GLASS RESERVOIR AND NOVEMBER 16, 1917 FOR EAGLE LAKE RESERVOIR

**Rate:** 33.26 ACRE FEET

**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 3.5 acre-feet per acre for each acre irrigated, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

**Source:** EAGLE LAKE RESERVOIR and LOOKING GLASS RESERVOIR, tributaries to the WEST FORK EAGLE CREEK

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	44 E	WM	16	SW SW	EAGLE LAKE RES: 623 FEET NORTH AND 583 FEET EAST FROM THE SW CORNER OF SECTION 16
5 S	44 E	WM	32	SW SW	LOOKING GLASS RES: 4542 FEET SOUTH AND 128 FEET EAST FROM THE SW CORNER OF SECTION 32

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
8 S	43 E	WM	19	SW SW	4	10.2
8 S	43 E	WM	19	SE SW		8.9
8 S	43 E	WM	19	SW SE		5.5
8 S	43 E	WM	30	NW NE		5.8

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
8 S	43 E	WM	30	SW NE		1.0
8 S	43 E	WM	30	NE NW		5.3
8 S	43 E	WM	30	NW NW	1	0.9
8 S	43 E	WM	30	SE NW		7.9
Total:						45.5

9. Transfer Application T-11674 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	43 E	WM	30	SW NE	16.0
8 S	43 E	WM	30	NE NW	7.4
8 S	43 E	WM	30	SE NW	22.1
Total:					45.5

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

**Certificate:** 74009 in the name of PHILLIPS-INGLE DITCH IMPROVEMENT DISTRICT; C/O MIKE MILLER, PRESIDENT, POWDER RIVER RANCHES (perfected under Permit S-11045)

**Use:** SUPPLEMENTAL IRRIGATION of 40.2 ACRES IN TRACT 2

**Priority Date:** OCTOBER 30, 1933

**Rate:** 0.50 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-FORTIETH of one cubic foot per second for each acre irrigated during the irrigation season of each year and shall not exceed 3 acre-feet per acre throughout the irrigation season of APRIL 1 TO OCTOBER 1.

**Period of Use:** APRIL 1 TO OCTOBER 1

**Source:** GOOSE CREEK AND WEST EAGLE CREEK, tributaries to the POWDER RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	43 E	WM	8	SE SE	PHILLIPS & INGLE DITCH (WEST EAGLE CREEK): 1249 FEET NORTH AND 477 FEET WEST FROM THE SE CORNER OF SECTION 8
8 S	43 E	WM	4	NE SE	PHILLIPS & INGLE DITCH (GOOSE CREEK): 1703 FEET NORTH AND 482 FEET WEST FROM THE SE CORNER OF SECTION 4
8 S	43 E	WM	20	SW SW	PHILLIPS & INGLE #2 DITCH (GOOSE CREEK): 1175 FEET NORTH AND 3985 FEET WEST FROM THE SE CORNER OF SECTION 20

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
8 S	43 E	WM	19	SW SW	4	10.2
8 S	43 E	WM	19	SE SW		8.9
8 S	43 E	WM	30	NW NE		6.0
8 S	43 E	WM	30	SW NE		1.0
8 S	43 E	WM	30	NE NW		5.3
8 S	43 E	WM	30	NW NW	1	0.9
8 S	43 E	WM	30	SE NW		7.9
Total:						40.2

11. Transfer Application T-11674 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	43 E	WM	30	SW NE	16.0
8 S	43 E	WM	30	NE NW	7.4
8 S	43 E	WM	30	SE NW	16.8
Total:					40.2

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

12. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
13. A diversion structure and ditch 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-11674.
14. The proposed change would not result in enlargement of the rights.
15. 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-11674 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-11674 is approved, the final order will include the following:*

1. *The change in place of use proposed in Transfer Application T-11674 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 Certificates 74005, 74008, and 74009 and any related decree.*

3. *Water right certificates 74005, 74008, and 74009 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
4. *The former place of use of the transferred rights shall no longer receive water under the rights.*
5. *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 change and full beneficial use of the water.*
6. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 24 day of March 2014.

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

This Preliminary Determination was prepared by Tracy Fox. If you have questions about the information in this document, you may reach me at 503 986-0827 or Tracy.L.Fox@wr.d.state.or.us.

Protests should be addressed to the Water Rights Services Division, Oregon Water Resources Department, 725 Summer Street, Suite A, Salem, OR 97301-1266.