



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

April 10th, 2014

VIA E-MAIL

RICHARD AND CAROLYN MENSCH
PO BOX 628
CHRISTMAS VALLEY, OR 97641
cmensch@yahoo.com

SUBJECT: Water Right Transfer Application T-11649

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11649. 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 and in the Lake County Examiner newspaper, 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 last date of newspaper publication.

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@wrdd.state.or.us if I may be of assistance.

Sincerely,

Sarah Henderson
Transfer Specialist
Transfer and Conservation Section

cc: T-11649
Brian M. Mayer, District 12 Watermaster (via e-mail)
Dennis R. Glender, Agent for the applicant (via e-mail)(djglender@msn.com)
Scott Montgomery, CWRE #51324 (via e-mail)(scott@apeands.com)

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11649, Lake County	)	PROPOSING APPROVAL OF
	)	CHANGES IN AND ADDITIONAL
	)	POINTS OF APPROPRIATION, AND
	)	CHANGES IN PLACES 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.

Applicants

RICHARD AND CAROLYN MENSCH
PO BOX 628
CHRISTMAS VALLEY, OR 97641

Findings of Fact

1. On August 15, 2013, RICHARD AND CAROLYN MENSCH filed an application for additional points of appropriation and to change points of appropriation and the places of use under Certificates 35972, 47615, 47619, and 53351. The Department assigned the application number T-11649.
2. Notice of the application for transfer was published on August 20, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 17, 2014, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11649 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 16, 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.
4. The first right to be transferred is as follows:

Certificate:	35972 in the name of LYLE AND/OR HELEN DAMEWOOD (perfected under Permit G-2521)
Use:	IRRIGATION of 89.0 ACRES

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.

Priority Date: OCTOBER 11, 1963

Rate: 1.11 CUBIC FEET 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year; and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: A WELL within the SILVER CREEK (SILVER LAKE) BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
26 S	19 E	WM	5	SW NW	4	WELL 1: 1990 FEET SOUTH AND 1200 FEET EAST FROM THE NW CORNER OF SECTION 5

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	19 E	WM	5	NE NW	3	10.6
26 S	19 E	WM	5	NW NW	4	1.4
26 S	19 E	WM	5	SW NW		37.0
26 S	19 E	WM	5	SE NW		40.0
Total						89.0

5. Transfer Application T-11649 proposes to change the point of appropriation approximately 0.49 mile to Well 3 and 0.71 mile to Well 4 from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	19 E	WM	5	SE SW	WELL 3: 1320 FEET NORTH AND 1390 FEET EAST FROM THE SW CORNER OF SECTION 5
26 S	19 E	WM	5	SW SE	WELL 4: 1098 FEET NORTH AND 1516 FEET WEST FROM THE SE CORNER OF SECTION 5

6. Transfer Application T-11649 also proposes to change the place of use of the right to:

IRRIGATION						
Well	Twp	Rng	Mer	Sec	Q-Q	Acres
3	26 S	19 E	WM	5	SW SW	30.8
3	26 S	19 E	WM	5	SE SW	31.5
4	26 S	19 E	WM	5	NW SE	20.5
4	26 S	19 E	WM	5	SW SE	6.2
Total						89.0

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

Certificate: 47615 in the name of LYLE & HELEN DAMEWOOD (perfected under Permit G-6143)

Use: IRRIGATION of 99.2 ACRES

Priority Date: MAY 16, 1974

Rate: 1.24 CUBIC FEET 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: DAMEWOOD WELL within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
26 S	19 E	WM	5	NW NW	4	WELL 1: 1970 FEET SOUTH AND 1190 FEET EAST FROM THE NW CORNER OF SECTION 5

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	19 E	WM	5	NE NW	3	44.6
26 S	19 E	WM	5	NW NW	4	54.6
Total						99.2

8. Transfer Application T-11649 proposes to change the point of appropriation approximately 0.20 feet to Well 1A and 0.71 mile to Well 4 from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
26 S	19 E	WM	5	SW NW	4	WELL 1A: 1990 FEET SOUTH AND 1190 FEET EAST FROM THE NW CORNER OF SECTION 5
26 S	19 E	WM	5	SW SE		WELL 4: 1098 FEET NORTH AND 1516 FEET WEST FROM THE SE CORNER OF SECTION 5

9. Transfer Application T-11649 also proposes to change the place of use of the right to:

IRRIGATION							
Well	Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
1A	26 S	19 E	WM	5	NE NW	3	45.5
1A	26 S	19 E	WM	5	NW NW	4	40.0
1A	26 S	19 E	WM	5	SE NW		2.9
4	26 S	19 E	WM	5	SW SE		10.8
Total							99.2

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

Certificate: 47619 in the name of LYLE DAMEWOOD (perfected under Permit G-6621)

Use: IRRIGATION of 195.0 ACRES

Priority Date: DECEMBER 22, 1975

Rate: 2.44 CUBIC FEET 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: A WELL within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	19 E	WM	5	SE NE	WELL 2: 3250 FEET SOUTH AND 1280 FEET WEST FROM THE NE CORNER OF SECTION 5

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	19 E	WM	5	NE NE	1	57.6
26 S	19 E	WM	5	NW NE	2	58.4
26 S	19 E	WM	5	SW NE		39.5
26 S	19 E	WM	5	SE NE		39.5
Total						195.0

11. Transfer Application T-11649 proposes to change the point of appropriation for 50.7 acres approximately 0.30 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	19 E	WM	5	SW SE	WELL 4: 1098 FEET NORTH AND 1516 FEET WEST FROM THE SE CORNER OF SECTION 5

12. Transfer Application T-11649 also proposes to change the place of use of the right to:

IRRIGATION							
Well	Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
2	26 S	19 E	WM	5	NE NE	1	47.2
2	26 S	19 E	WM	5	NW NE	2	40.1
2	26 S	19 E	WM	5	SW NE		33.9
2	26 S	19 E	WM	5	SE NE		19.6
2	26 S	19 E	WM	5	NE NW		0.8
2	26 S	19 E	WM	5	SE NW	3	0.5
2	26 S	19 E	WM	5	NE SE		1.4
4	26 S	19 E	WM	5	NE SE		12.9
4	26 S	19 E	WM	5	NW SE	2	1.6
2	26 S	19 E	WM	5	NW SE		0.8
4	26 S	19 E	WM	5	SW SE		13.2
4	26 S	19 E	WM	5	SE SE		23.0
Total							195.0

13. The fourth right to be transferred is as follows:

Certificate: 53351 in the name of RICHARD MENSCH (perfected under Permit G-9122)

Use: IRRIGATION of 130.0 ACRES

Priority Date: DECEMBER 15, 1980

Rate: 1.63 CUBIC FEET 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: A WELL within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	19 E	WM	5	SE SW	WELL 3: 1320 FEET NORTH AND 1390 FEET EAST FROM THE SW CORNER OF SECTION 5

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	19 E	WM	5	NE SW	33.9
26 S	19 E	WM	5	NW SW	31.5
26 S	19 E	WM	5	SW SW	30.9
26 S	19 E	WM	5	SE SW	33.7
Total					130.0

14. Transfer Application T-11649 proposes an additional point of appropriation approximately 0.49 mile to Well 1A and to change the point of appropriation approximately 0.45 mile to Well 4 from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
26 S	19 E	MM	5	SW NW	4	WELL 1A: 1990 FEET SOUTH AND 1200 FEET EAST FROM THE NW CORNER OF SECTION 5
26 S	19 E	WM	5	SW SE		WELL 4: 1098 FEET NORTH AND 1516 FEET WEST FROM THE SE CORNER OF SECTION 5

15. Transfer Application T-11649 also proposes to change the place of use of the right to:

IRRIGATION						
Well	Twp	Rng	Mer	Sec	Q-Q	Acres
1A, 3	26 S	19 E	WM	5	SW NW	31.8
1A, 3	26 S	19 E	WM	5	SE NW	30.4
1A, 3	26 S	19 E	WM	5	NE SW	32.2
1A, 3	26 S	19 E	WM	5	NW SW	31.3
4	26 S	19 E	WM	5	SW SE	4.3
Total						130.0

Transfer Review Criteria (OAR 690-380-4010)

16. 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.

17. 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-11649.
18. The proposed change would not result in enlargement of the rights.
19. The proposed change would not result in injury to other water rights.
20. All other application requirements are met.

Determination and Proposed Action

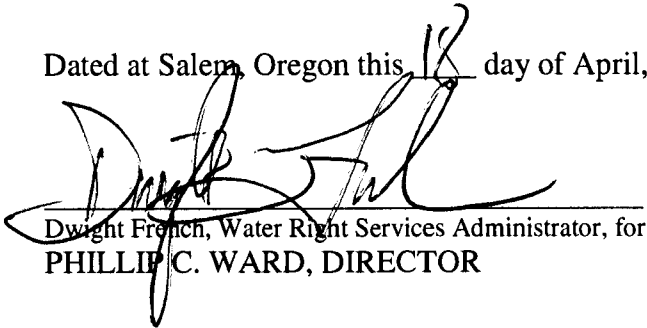
The changes in and additional points of appropriation and the changes in place of use proposed in Transfer Application T-11649 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11649 is approved, the final order will include the following:

1. *The changes in and additional points of appropriation and the changes in place of use proposed in Transfer Application T-11649 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 35972, 47615, 47619, and 53351, and any related decree.*
3. *Water right certificates 35972, 47619, 47615, and 53351 are cancelled.*
4. *The quantity of water diverted at the additional points 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.*
5. *Water use measurement conditions:*
 - a. *Before water use may begin under this order, the water user shall install a instantaneous and totalizing flow meter, or, with prior approval of the Director, another suitable measuring device at each point of appropriation (new and existing).*
 - b. *The water user shall maintain the meters or measuring devices in good working order.*
 - c. *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.*
6. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
7. *The former place of use of the transferred rights shall no longer receive water under the rights.*

8. *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 applicants to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*
9. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 18 day of April, 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 Water Rights Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.