



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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September 8, 2014

VIA E-MAIL

WILKS RANCH OREGON LIMITED
4945 WILLOW CREEK ROAD
IRONSIDE, OR 97908

SUBJECT: Water Right Transfer Application T-11585

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11585. 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 Malheur Enterprise 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 503-986-0886 or Patrick.K.Starnes@wr.d.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Specialist

cc: Transfer Application file T-11585
Ron Jacobs, District 9 Watermaster (*via e-mail*)
Dennis R. Glender, Agent for the applicant (*via e-mail*)

encs

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11585, Malheur County)	PROPOSING APPROVAL OF
)	CHANGES IN POINTS OF
)	DIVERSION, POINTS OF
)	APPROPRIATION, ADDITIONAL
)	POINTS OF APPROPRIATION, PLACE
)	OF USE AND PARTIAL DIMINUTION
)	OF A WATER RIGHT

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, 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

WILKS RANCH OREGON LIMITED
4945 WILLOW CREEK RD
IRONSIDE, OR 97908

Agent

DENNIS R. GLENDER
8664 SW SAND RIDGE RD
CROOKED RIVER RANCH, OR 97760

Findings of Fact

1. On April 24, 2013, WILKS RANCH OREGON filed an application to TEMPORARILY change the point of diversion, point of appropriation, add points of appropriation, and to change the place of use under Certificates 1550, 1582, 22866, 44016, 44017, 44770, 46075, and 76983. The Department assigned the application number T-11585.
2. Notice of the application for transfer was published on April 30, 2013, and December 24, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 10, 2013, June 11, 2013, June 12, 2013, June 14, 2013, June 24, 2013, June 25, 2013 July 18, 2013, July 22, 2013, and August 9, 2013, the Department contacted the agent and Certified Water Rights examiner by e-mail identifying the deficiencies in the application and on the application map.
4. On August 2, 2013, the applicant submitted a revised application and map, correcting a portion of the deficiencies addressed in the previous e-mail correspondence.

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.

5. On August 9, 2013, the Department contacted the agent and Certified Water Rights examiner by e-mail notifying them that a temporary transfer could not be an avenue for changes in point of diversion and point of diversion only. Other deficiencies were also identified.
6. On August 21, 2013, the applicant submitted a revised application and map, correcting a portion of the deficiencies addressed in the previous e-mail correspondence.
7. On October 22, 2013 the Department contacted the agent and Certified Water Rights examiner by e-mail notifying them of the deficiencies found.
8. On December 12, 2013, WILKS RANCH OREGON LIMITED filed an amended application to change the point of diversion, point of appropriation, additional points of appropriation and place of use under Certificates 1550, 1582, 22866, 44016, 44017, 44770, 46075, and 76983.
9. On March 31, 2014 and April 17, 2014, the Department contacted the agent, applicant, and Certified Water Rights examiner via e-mail correcting field size inconsistencies. The Department requested that the deficiencies be resolved by April 30, 2014.
10. On April 28, 2014, the applicant submitted a revised application and map, correcting the deficiencies addressed in the previous e-mail correspondence.
11. On June 4, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11585 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 5, 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.
12. The first right to be transferred is as follows:
 - Certificate:** 1550 in the name of E J BEAM (confirmed by Willow Creek Decree, Malheur County)
 - Use:** IRRIGATION OF 127.5 ACRES, DOMESTIC AND STOCK USE
 - Priority Date:** 1881 FOR IRRIGATION OF 50.0 ACRES AND 1890 FOR IRRIGATION OF 57.5 ACRES FROM BOULDER CREEK AND 1905 FOR THE IRRIGATION OF 2.5 ACRES AND 1907 FOR THE IRRIGATION OF 17.5 ACRES FROM SOUTH FORK OF BOULDER CREEK
 - Rate:** 3.22 sec. ft. from April 1st to May 1st and 1.61 sec. ft. from May 1st to September 1st of each year, or the equivalent in case of rotation; the total quantity diverted during each irrigation season not to exceed 382.5 acre feet.
 - Source:** BOULDER CREEK aka (JOHNSON BOULDER CREEK), and SOUTH FORK OF BOULDER CREEK aka (PICNIC BOULDER CREEK), tributary OF WILLOW CREEK

Authorized Place of Use:

IRRIGATION, LIVESTOCK AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	9	SW SE	2.5
14 S	39 E	WM	9	SE SE	1.5
14 S	39 E	WM	15	NW NE	1.0
14 S	39 E	WM	15	SW NE	29.0
14 S	39 E	WM	15	SE NE	17.0
14 S	39 E	WM	15	NE NW	23.0
14 S	39 E	WM	15	NW NW	15.5
14 S	39 E	WM	15	SW NW	1.0
14 S	39 E	WM	15	SE NW	31.0
14 S	39 E	WM	16	NE NE	6.0
TOTAL					127.5

13. Certificate 1550 does not describe the location of the points of diversion; however information is available from the Willow Creek Decree Map which identified one of the points of diversion from the South Fork of Boulder Creek. It is unclear at this time whether there are additional points of diversion and where those points are located within the place of use for this right. The applicant measured from the decree map and described an approximate location on the application. The approximate location is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	39 E	WM	9	SE SW	BEAM DIVERSION - 600 FEET NORTH AND 80 FEET WEST FROM THE S¼ CORNER OF SECTION 9

14. Transfer Application T-11585 proposes to change the place of use of the right to:

BOULDER CREEK aka JOHNSON BOULDER CREEK							
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority	Tax Lot
14 S	39 E	WM	9	SE SE	1.5	1890	1800
14 S	39 E	WM	15	NW NE	1.0	1890	1800
14 S	39 E	WM	15	SW NE	10.0	1890	1800
14 S	39 E	WM	15	NE NW	21.5	1881	1800
14 S	39 E	WM	15	NW NW	27.1	1881	1800
14 S	39 E	WM	15	SW NW	1.0	1881	1800
14 S	39 E	WM	15	SE NW	0.4	1881	1800
14 S	39 E	WM	15	SE NW	10.8	1890	1800
14 S	39 E	WM	15	SE NW	28.0	1890	1800
14 S	39 E	WM	15	NE SW	0.2	1890	1800
14 S	39 E	WM	16	NE NE	6.0	1890	1800
TOTAL					107.5		

SOUTH FORK BOULDER CREEK aka PICNIC BOULDER CREEK							
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority	Tax Lot
14 S	39 E	WM	9	SW SE	2.5	1905	1800
14 S	39 E	WM	15	SW NE	0.5	1907	1800
14 S	39 E	WM	15	SE NE	17.0	1907	1800
TOTAL					20.0		

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

Certificate: 1582 in the name of FANNIE HOWARD (confirmed by Willow Creek Decree, Malheur County)
Use: IRRIGATION OF 171.5 ACRES, LIVESTOCK AND DOMESTIC USE
Priority Date: 1880 FOR 156.5 ACRES AND 1885 FOR 15.0 ACRES
Rate: 4.29 SEC. FEET FROM APRIL 1st TO MAY 1st AND 2.15 SEC. FEET FROM MAY 1st TO SEPTEMBER 1st OF EACH YEAR, OF THE EQUIVALENT IN CASE OF ROTATION; THE TOTAL QUANTITY DIVERTED DURING EACH IRRIGATION SEASON NOT TO EXCEED 514.5 ACRE FEET.
Source: WILLOW CREEK, tributary to the MALHEUR RIVER
Ditch Name: NORTH AND SOUTH DITCHES

Authorized Place of Use:

IRRIGATION,					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	13	NE SW	40.0
14 S	39 E	WM	13	SE SW	23.0
14 S	39 E	WM	13	NE SE	30.0
14 S	39 E	WM	13	NW SE	40.0
14 S	39 E	WM	13	SW SE	16.0
14 S	39 E	WM	13	SE SE	7.5
TOTAL					156.5

IRRIGATION FOR THE FOLLOWING GOVERNMENT LAND SO LONG AS IN POSSESSION OF CLAIMANT AND GRANTEES:					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	13	SW NE	10.5
14 S	39 E	WM	13	SE NE	4.5
TOTAL					15.0

16. Certificate 1580 does not describe the location of the points of diversion; however information is available from the Willow Creek Decree Map which identifies the points of diversion. The applicant measured from the decree map and described an approximate location on the application. The approximate location is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	39 E	WM	13	SE SW	POD 3 - 550 FEET NORTH AND 4300 FEET WEST FROM THE SE CORNER OF SECTION 13
14 S	39 E	WM	13	SE SW	POD 4 - 500 FEET NORTH AND 3800 FEET WEST FROM THE SE CORNER OF SECTION 13
14 S	39 E	WM	13	NW SE	POD 5 - 1650 FEET NORTH AND 1600 FEET WEST FROM THE SE CORNER OF SECTION 13

17. Transfer Application T-11585 proposes to move the authorized point of diversion upstream approximately 1.75 miles from authorized point of diversion 5, 1.40 miles from authorized point of diversion 4, and approximately 1.25 miles from authorized point of diversion 3. The location of the proposed point of diversion is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	39 E	WM	15	SE SE	POD 2 - 1210 FEET NORTH AND 680 FEET WEST FROM THE SE CORNER OF SECTION 15

18. Transfer Application T-11585 also proposes to change the place of use of the right to:

IRRIGATION, LIVESTOCK AND DOMESTIC							
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority	Tax Lot
14 S	39 E	WM	13	SW NE	18.3	1880	2000
14 S	39 E	WM	13	SE NE	10.7	1880	2000
14 S	39 E	WM	13	SE NE	6.6	1885	2000
14 S	39 E	WM	13	SE NW	0.8	1880	2000
14 S	39 E	WM	13	NE SW	29.6	1880	2000
14 S	39 E	WM	13	SE SW	17.7	1880	2000
14 S	39 E	WM	13	NE SE	28.7	1880	2000
14 S	39 E	WM	13	NE SE	8.4	1885	2000
14 S	39 E	WM	13	NW SE	36.7	1880	2000
14 S	39 E	WM	13	SW SE	6.7	1880	2000
14 S	39 E	WM	13	SE SE	7.3	1880	2000
TOTAL					171.5		

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

Certificate: 22866 in the name of ERNEST AND FRED LOCEY (perfected under Permit U-367)

Use: SUPPLEMENTAL IRRIGATION OF 263.7 ACRES

Priority Date: AUGUST 18, 1950

Rate: 2.0 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.

Source: A WELL within the MILL BOULDER CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q
14 S	39 E	WM	14	NW SW

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	13	SW NW	3.6
14 S	39 E	WM	13	NW SW	40.0
14 S	39 E	WM	13	SW SW	20.0
14 S	39 E	WM	14	NE SW	38.9

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	14	NW SW	31.2
14 S	39 E	WM	14	SE SW	8.0
14 S	39 E	WM	14	NE SE	37.6
14 S	39 E	WM	14	NW SE	38.0
14 S	39 E	WM	14	SW SE	18.4
14 S	39 E	WM	14	SE SE	28.0
TOTAL					263.7

20. Certificate 22866 does not describe the location of the point of appropriation; however information is available from transfer application Map which identifies the point of appropriation. The applicant described the location on the application. The location is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	39 E	WM	14	NW SW	POA 2 (MALH 2932) - 2620 FEET NORTH AND 0 FEET EAST FROM THE SW CORNER OF SECTION 14

21. Transfer Application T-11585 proposes additional points of appropriation approximately 120 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	39 E	WM	14	NW SE	POA 3 (MALH 2510) - 2040 FEET NORTH AND 2580 FEET WEST FROM THE SE CORNER OF SECTION 14
14 S	39 E	WM	13	NE SW	POA 4 (MALH 015) - 2540 FEET NORTH AND 2460 FEET EAST FROM THE SW CORNER OF SECTION 13

22. Transfer Application T-11585 also proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
14 S	39 E	WM	13	NW SW	27.3	300
14 S	39 E	WM	13	SW SW	19.2	300
14 S	39 E	WM	14	SE NE	5.9	300
14 S	39 E	WM	14	SW NW	10.4	300
14 S	39 E	WM	14	SE NW	9.6	300
14 S	39 E	WM	14	NE SW	36.0	300
14 S	39 E	WM	14	NW SW	31.5	300
14 S	39 E	WM	14	SE SW	4.5	300
14 S	39 E	WM	14	NE SE	38.0	300
14 S	39 E	WM	14	NW SE	33.9	300
14 S	39 E	WM	14	SW SE	20.0	300
14 S	39 E	WM	14	SE SE	22.1	300
TOTAL					258.4	

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

Certificate: 44016 in the name of LOCEY AND SON (confirmed by Willow Creek Decree, Malheur County)
Use: IRRIGATION OF 308.0 ACRES, DOMESTIC USE, AND STOCK USE
Priority Date: 1874 FOR 80.0 ACRES, 1877 FOR 75.0 ACRES, 1879 FOR 153.0 ACRES
Rate: 9.70 CUBIC FEET PER SECOND
Limit/Duty: 7.70 SEC. FEET FROM APRIL 1ST TO MAY 1ST AND 3.86 SEC. FEET FROM MAY 1ST TO SEPTEMBER 1ST OF EACH YEAR, OR THE EQUIVALENT IN CASE OF ROTATION; THE TOTAL QUANTITY DIVERTED DURING EACH IRRIGATION SEASON NOT TO EXCEED 924.0 ACRE FEET.
Source: WILLOW CREEK, tributary to the MALHEUR RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	39 E	WM	15	SW SE	POD 1 - 970 FEET NORTH AND 1885 FEET WEST FROM THE SE CORNER OF SECTION 15
14 S	39 E	WM	15	SE SE	POD 2 - 1210 FEET NORTH AND 680 FEET WEST FROM THE SE CORNER OF SECTION 15

Authorized Place of Use:

IRRIGATION, LIVESTOCK AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	14	SW NE	8.5
14 S	39 E	WM	14	SW NW	17.0
14 S	39 E	WM	14	NE SW	40.0
14 S	39 E	WM	14	NW SW	40.0
14 S	39 E	WM	14	SW SW	19.0
14 S	39 E	WM	14	SE SW	28.0
14 S	39 E	WM	14	NE SE	40.0
14 S	39 E	WM	14	NW SE	40.0
14 S	39 E	WM	14	SW SE	35.5
14 S	39 E	WM	14	SE SE	40.0
TOTAL					308.0

24. Transfer Application T-11585 proposes to change the place of use of the right to:

IRRIGATION, LIVESTOCK AND DOMESTIC							
Twp	Rng	Mer	Sec	Q-Q	Acres	Date	Tax Lot
14 S	39 E	WM	13	SE NE	3.7	1879	300
14 S	39 E	WM	13	NE SE	0.7	1879	300
14 S	39 E	WM	14	SW NE	5.3	1874	300
14 S	39 E	WM	14	SE NE	5.9	1877	300
14 S	39 E	WM	14	SW NW	22.4	1879	300
14 S	39 E	WM	14	SE NW	9.6	1879	300
14 S	39 E	WM	14	SE NW	23.1	1879	300
14 S	39 E	WM	14	NE SW	13.2	1879	300
14 S	39 E	WM	14	NE SW	25.3	1877	300
14 S	39 E	WM	14	NW SW	37.9	1879	300
14 S	39 E	WM	14	SW SW	19.0	1879	300
14 S	39 E	WM	14	SE SW	4.5	1877	300

IRRIGATION, LIVESTOCK AND DOMESTIC							
Twp	Rng	Mer	Sec	Q-Q	Acres	Date	Tax Lot
14 S	39 E	WM	14	NE SE	35.2	1877	300
14 S	39 E	WM	14	NE SE	2.8	1874	300
14 S	39 E	WM	14	NW SE	33.9	1874	300
14 S	39 E	WM	14	SW SE	20.0	1874	300
14 S	39 E	WM	14	SW SE	8.0	1879	300
14 S	39 E	WM	14	SE SE	15.4	1879	300
14 S	39 E	WM	14	SE SE	18.0	1874	300
14 S	39 E	WM	14	SE SE	4.1	1877	300
TOTAL					308.0		

25. The fifth right to be transferred is as follows:

Certificate: 44017 in the name of LOCEY AND SON (confirmed by Willow Creek Decree, Malheur County)

Use: IRRIGATION OF 69.0 ACRES, DOMESTIC USE, AND STOCK USE

Priority Date: 1885

Rate: 1.73 CUBIC FEET PER SECOND

Limit/Duty: 1.73 SEC. FEET FROM APRIL 1st TO MAY 1st AND 0.87 SEC. FEET FROM MAY 1st TO SEPTEMBER 1st OF EACH YEAR, OR THE EQUIVALENT IN CASE OF ROTATION; THE TOTAL QUANTITY DIVERTED DURING EACH IRRIGATION SEASON NOT TO EXCEED 207.0 ACRE FEET.

Source: WILLOW CREEK, tributary to the MALHEUR RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	39 E	WM	15	SW SE	POD 1 - 970 FEET NORTH AND 1885 FEET WEST FROM THE SE CORNER OF SECTION 15
14 S	39 E	WM	15	SE SE	POD 2 - 1210 FEET NORTH AND 680 FEET WEST FROM THE SE CORNER OF SECTION 15

Authorized Place of Use:

IRRIGATION, LIVESTOCK AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	13	SW NW	5.0
14 S	39 E	WM	13	NW SW	40.0
14 S	39 E	WM	13	SW SW	24.0
TOTAL					69.0

26. Transfer Application T-11585 proposes to change the place of use of the right to:

IRRIGATION, LIVESTOCK AND DOMESTIC					
Rng	Mer	Sec	Q-Q	Acres	Tax Lot
39 E	WM	13	SW NW	5.0	300
39 E	WM	13	SE NW	3.0	300
39 E	WM	13	NE SW	3.9	300
39 E	WM	13	NW SW	37.9	300
39 E	WM	13	SW SW	19.2	300
TOTAL				69.0	

27. The sixth right to be transferred is as follows:

Certificate: 44770 in the name of RESERVOIR LAND COMPANY (perfected under Permit G-4466)

Use: IRRIGATION OF 32.3 ACRES AND SUPPLEMENTAL IRRIGATION OF 135.7 ACRES

Priority Date: JANUARY 2, 1969

Rate: 2.1 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, provided further that the amount of water re-diverted from the channel of Willow Creek shall not exceed the amount by which the flow of Willow Creek at the point of re-diversion is increased above the natural flow by the operation of said well.

Source: A WELL within the WILLOW CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	39 E	WM	13	NE SW	POA 4 - 2540 FEET NORTH AND 2460 FEET EAST FROM THE SW CORNER OF SECTION 13

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	13	SW NE	1.9
14 S	39 E	WM	13	SE NE	18.3
14 S	39 E	WM	13	SW NW	0.2
14 S	39 E	WM	13	SE NW	2.9
14 S	39 E	WM	13	NE SE	9.0
TOTAL					32.3

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	13	SW NE	10.5
14 S	39 E	WM	13	SE NE	4.5
14 S	39 E	WM	13	SW NW	5.0
14 S	39 E	WM	13	NE SW	38.5
14 S	39 E	WM	13	NW SW	36.6
14 S	39 E	WM	13	SE SW	7.8
14 S	39 E	WM	13	NE SE	3.4
14 S	39 E	WM	13	NW SE	29.4
TOTAL					135.7

28. Transfer Application T-11585 proposes additional points of appropriation. The authorized Well 4 is approximately 0.25 mile from proposed POA 3 and approximately 400 feet from proposed POA 2. The proposed points of appropriation are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	39 E	WM	14	NW SW	POA 2 (MALH 2932) - 2620 FEET NORTH AND 0 FEET EAST FROM THE SW CORNER OF SECTION 14
14 S	39 E	WM	14	NW SE	POA 3 (MALH 2510) - 2040 FEET NORTH AND 2580 FEET WEST FROM THE SE CORNER OF SECTION 14

29. Transfer Application T-11585 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
14 S	39 E	WM	13	NE SW	4.2	300
14 S	39 E	WM	13	SW SW	3.3	2000
14 S	39 E	WM	13	SE SW	8.1	2000
14 S	39 E	WM	13	NW SE	2.6	2000
14 S	39 E	WM	13	SW SE	13.1	2000
14 S	39 E	WM	13	SE SE	1.0	2000
TOTAL					32.3	

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
14 S	39 E	WM	13	SW NE	18.3	2000
14 S	39 E	WM	13	SE NE	21.0	2000
14 S	39 E	WM	13	NE SW	7.9	2000
14 S	39 E	WM	13	NE SE	37.8	2000
14 S	39 E	WM	13	NW SE	36.7	2000
14 S	39 E	WM	13	SW SE	6.7	2000
14 S	39 E	WM	13	SE SE	7.3	2000
TOTAL					135.7	

30. The seventh right to be transferred is as follows:

Certificate: 46075 in the name of CHARLES MCCOY (perfected under Permit G-5926)

Use: IRRIGATION OF 19.7 ACRES AND SUPPLEMENTAL IRRIGATION OF 127.5 ACRES

Priority Date: SEPTEMBER 24, 1973

Rate: 0.51 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 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: MCCOY WELL within the BOULDER CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	39 E	WM	9	SE SE	POA 1 (MALH 018) - 150 FEET NORTH AND 1270 FEET WEST FROM THE SE CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	15	SE NE	2.6
14 S	39 E	WM	15	NE NW	3.8
14 S	39 E	WM	15	NW NW	12.5
14 S	39 E	WM	15	SW NW	0.8
14 S	39 E	WM	16	NE NE	2.3
TOTAL					22.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	9	SW SE	2.5
14 S	39 E	WM	9	SE SE	0.6
14 S	39 E	WM	15	NW NE	1.0
14 S	39 E	WM	15	SW NE	27.6
14 S	39 E	WM	15	SE NE	17.0
14 S	39 E	WM	15	NE NW	23.0
14 S	39 E	WM	15	NW NW	15.5
14 S	39 E	WM	15	SW NW	1.0
14 S	39 E	WM	15	SE NW	31.0
14 S	39 E	WM	16	NE NE	6.0
TOTAL					125.2

31. There are 2.3 acres of primary irrigation that the applicant requested to diminish to supplemental irrigation. The location of the authorized place of use requested to be diminished is as follows:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	16	NE NE	2.3

32. Transfer Application T-11585 proposes additional points of appropriation. Authorized POA 1 is approximately 1.3 miles from the proposed POA 2 and approximately 155 feet from proposed POA 3. The proposed points of appropriation are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	39 E	WM	14	NW SW	POA 2 (MALH 2932) - 2620 FEET NORTH AND 0 FEET EAST FROM THE SW CORNER OF SECTION 14
14 S	39 E	WM	14	NW SE	POA 3 (MALH 2510) - 2040 FEET NORTH AND 2580 FEET WEST FROM THE SE CORNER OF SECTION 14

33. Transfer Application T-11585 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
14 S	39 E	WM	15	NW NE	0.1	800
14 S	39 E	WM	15	SW NE	16.4	800
14 S	39 E	WM	15	SE NW	3.2	1800
TOTAL					19.7	

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
14 S	39 E	WM	9	SW NE	2.5	1800
14 S	39 E	WM	9	SE SE	1.5	1800
14 S	39 E	WM	15	NW NE	1.0	800
14 S	39 E	WM	15	SW NE	8.2	1800
14 S	39 E	WM	15	SW NE	2.3	1800
14 S	39 E	WM	15	SE NE	17.0	1800
14 S	39 E	WM	15	NE NW	32.3	1800
14 S	39 E	WM	15	NW NW	27.1	1800
14 S	39 E	WM	15	SW NW	1.0	2200
14 S	39 E	WM	15	SE NW	28.4	1800
14 S	39 E	WM	15	NE SW	0.2	2200
14 S	39 E	WM	16	NE SE	6.0	1800
TOTAL					127.5	

34. The eighth right to be transferred is as follows:

Certificate: 76983 in the name of RESERVOIR LAND COMPANY OF OREGON, INC. (perfected under Permit G-11713)

Use: SUPPLEMENTAL IRRIGATION OF 157.0 ACRES

Priority Date: JUNE 24, 1991

Rate: 1.50 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, is 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. This right is limited to any deficiency in the available supply of any prior right existing for the same land.

Source: ONE WELL within the WILLOW CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	39 E	WM	14	NW SE	POA 3 (MALH 2510) - 2040 FEET NORTH AND 2580 FEET WEST FROM THE SE CORNER OF SECTION 14

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	13	NW SW	14.7
14 S	39 E	WM	13	SW SW	8.7
14 S	39 E	WM	14	SW NE	2.5

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	39 E	WM	14	SE NE	0.7
14 S	39 E	WM	14	NE SE	38.5
14 S	39 E	WM	14	NW SE	39.6
14 S	39 E	WM	14	SW SE	23.2
14 S	39 E	WM	14	SE SE	29.1
TOTAL					157.0

35. Transfer Application T-11585 proposes additional points of appropriation. The authorized POA 3 is approximately 0.5 mile from the proposed POA 2 and approximately 420 feet from POA 4. The location of the proposed points of appropriation are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	39 E	WM	13	NE SW	POA 4 - 2540 FEET NORTH AND 2460 FEET EAST FROM THE SW CORNER OF SECTION 13
14 S	39 E	WM	14	NW SW	POA 2 (MALH 2932) - 2620 FEET NORTH AND 0 FEET EAST FROM THE SW CORNER OF SECTION 14

36. Transfer Application T-11585 also proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax Lot
14 S	39 E	WM	13	SW NW	5.0	300
14 S	39 E	WM	13	SE NW	3.8	300
14 S	39 E	WM	13	NE SW	33.5	2000
14 S	39 E	WM	13	NW SW	10.6	300
14 S	39 E	WM	13	SE SW	17.7	2000
14 S	39 E	WM	14	SW NW	12.0	300
14 S	39 E	WM	14	NE SW	2.5	300
14 S	39 E	WM	14	NW SW	6.4	300
14 S	39 E	WM	14	SW SW	19.0	300
14 S	39 E	WM	14	SE SW	23.1	300
14 S	39 E	WM	14	SW SE	8.0	300
14 S	39 E	WM	14	SE SE	15.4	300
TOTAL					157.0	

37. The Oregon Department of Fish and Wildlife (ODFW) determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. Listed fish species are not present at the point of diversion, the originating water right diversion is not screened, cost-share funds are not currently available, and the proposed diversion may be eligible for ODFW's cost-share program. A grace period of two years is appropriate until such time as cost-share funds become available to assist in the construction of a fish screen. If cost-share funds do not become available, the water user must screen within the indicated time period regardless of the availability of cost-share funding.

Transfer Review Criteria (OAR 690-380-4010)

38. Water has been used within the last five years prior to the submittal of Transfer Application T-11585 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.

39. 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-11585.
40. 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-11585.
41. The proposed change would not result in enlargement of the rights.
42. The proposed change would not result in injury to other water rights.
43. All other application requirements are met.

Determination and Proposed Action

The change in points of diversion, change in points of appropriation, additional points of appropriation, change in places of use, and partial diminution of a water right proposed in Transfer Application T-11585 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.

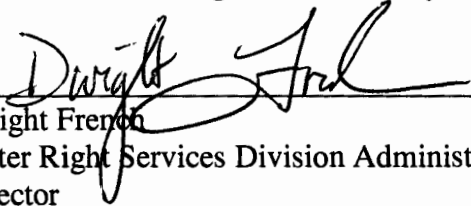
If Transfer Application T-11585 is approved, the final order will include the following:

1. *The change in points of diversion, change in points of appropriation, additional points of appropriation, and change in place of use, proposed in Transfer Application T-11585 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 1550, 1582, 22866, 44016, 44017, 44770, 46075, and 76983 and any related decree.*
3. *Water right Certificates 1550, 1582, 22866, 44016, 44017, 44770, 46075, and 76983 are cancelled.*
4. *The quantity of water diverted at the new and additional points of appropriation and diversion, together with that diverted at the original points of appropriation and diversions shall not exceed the quantity of water lawfully available at the original points of appropriation and diversion.*
5. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
6. *Water shall be acquired from the same water source as the original points of diversion.*
7. *Water use measurement conditions:*
 - a. *Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion and appropriation new and existing.*

- b. The water user shall maintain the meters and measuring devices in good working order.*
 - c. The water user shall allow the Watermaster access to the meters and measuring devices; provided however, where the meters and measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
- 8. Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.*
- 9. Within two years after the date of this order, the water user shall install an approved fish screen at the new point of diversion. The water user may withdraw water at the new point of diversion without a screen until October 1, 2017. The water user shall provide to OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary. The water user shall maintain and operate the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.*
- 10. The former place of use of the transferred rights shall no longer receive water under the rights.*
- 11. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2016**. 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.*

12. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 8 day of Sept. 2014.



Dwight French
Water Right Services Division Administrator, for
Director
Oregon Water Resources Department

This Preliminary Determination was prepared by Carrie Matthews. If you have questions about the information in this document, you may reach me at 541-523-8224 ext. 223 or Carrie.R.Matthews@wrds.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.