



Oregon

Kate Brown, Governor

Water Resources Department

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April 24, 2015

PERRY D AND SARA E BURROUGHS
31473 BENSEL ROAD
HERMISTON OR 97838

SUBJECT: Water Right Transfer Application T-11791

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11791. 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 503-986-0886 or Patrick.K.Starnes@ wrd.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst

Transfer and Conservation Section

cc: Transfer Application file T-11791
Greg Silbernagel, District 5 Watermaster (via e-mail)
Dale VanSchoiack, CWRE #333 (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-11791, Umatilla County)	PROPOSING APPROVAL OF
)	CHANGES IN PLACE OF USE AND
)	POINT OF APPROPRIATION

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

PERRY D AND SARA E BURROUGHS
31473 BENSEL ROAD
HERMISTON OR 97838

Findings of Fact

1. On April 16, 2014, PERRY D AND SARA E BURROUGHS filed an application to change the place of use and point of appropriation under Certificate 89053. The Department assigned the application number T-11791.
2. Notice of the application for transfer was published on April 22, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The right to be transferred is as follows:

Certificate: 89053 in the name of PERRY D AND SARA E BURROUGHS (perfected under Permit G-12292)
Use: IRRIGATION OF 37.5 ACRES
Priority Date: FEBRUARY 22, 1994
Rate: 0.469 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-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.
Period of Use: The period of allowed use is March 1 through October 31.
Source: A WELL within the UMATILLA DRAIN BASIN

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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Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	28 E	WM	24	SW SW	(UMAT 5864/53571) - 90 FEET NORTH AND 45 FEET EAST FROM THE SW CORNER OF SECTION 24

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of Change
5 N	28 E	WM	24	NW SW	18.5	POA
5 N	28 E	WM	24	SW SW	17.5	POA
5 N	28 E	WM	24	SW SW	1.5	POA / POU

4. Transfer Application T-11791 proposes to change the point of appropriation (well) east approximately 50 feet from the authorized (well) for the lands identified as "POA" in the "Type of Change" column described above. The location for the proposed well is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	28 E	WM	24	NW SW	(UMAT 57221) - 70 FEET NORTH AND 90 FEET EAST FROM THE SW CORNER OF SECTION 24

5. Transfer Application T-11791 also proposes to change the place of use for land identified as "POU" in the "Type of Change" column described above to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	28 E	WM	24	NW SW	1.5

6. On April 3, 2015, the Department mailed a draft copy of the Preliminary Determination proposing to approve Transfer Application T-11791 to the applicant. The Preliminary Determination set forth a deadline of May 4, 2015 for the applicant to respond. On April 8, 2015, the applicant requested 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.

Transfer Review Criteria (OAR 690-380-4010)

7. Pursuant to OAR 690-380-2110(2), the Department has made a finding, based on the information provided, that the proposed point of appropriation (UMAT 57221) develops the same (source) aquifer as that of the existing, original authorized well (UMAT 5864/53571).
8. Water has been used within the last five years prior to the submittal of Transfer Application T-11791 according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is 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 right were present within the five-year period prior to submittal of Transfer Application T-11791.
10. The proposed change would not result in enlargement of the right.

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 changes in point of appropriation and place of use proposed in Transfer Application T-11791 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-11791 is approved, the final order will include the following:

1. *The changes in point of appropriation and place of use proposed in Transfer Application T-11791 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 Certificate 89053 and any related decree.*
3. *Water right Certificate 89053 is cancelled.*
4. *The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
5. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
6. *The former place of use of the transferred right shall no longer receive water under the right.*
7. *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.*

8. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 24 day of April, 2015.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

This Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or Ken.D.Dowden@wr.d.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.