



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

June 15, 2015

Flowerree Hay and Grain LLC
PO Box 820
Bend, OR 97709

SUBJECT: Water Right Transfer Application T-11943

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11943. 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 (La Pine) Frontier Advertiser 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 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-11943
Brian M. Mayer, District 12 Watermaster (*via e-mail*)
John A. Short, Agent for the applicant (*via e-mail*)
Gary L. DeJarnatt, CWRE #33 (*via e-mail*)

enclosures

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11943, Lake County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN POINT OF
	)	APPROPRIATION AND PLACE OF
	)	USE

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

FLOWERREE HAY AND GRAIN LLC
PO BOX 820
BEND, OR 97709

Findings of Fact

1. On December 19, 2014, FLOWERREE HAY AND GRAIN LLC filed an application to change the point of appropriation and place of use under Certificate 81232. The Department assigned the application number T-11943.
2. Notice of the application for transfer was published on December 23, 2014, pursuant to OAR 690-380-4000.
3. On April 1, 2015, the Department contacted the applicant's agent by email to notify them of deficiencies in the application. The deficiencies included verification that an authorized individual signed the application and discrepancies in locations.
4. On April 1, and 6, 2015, the applicant's agent submitted amended application pages and an amended transfer map resolving the deficiencies.
5. On April 2, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11943 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 4, 2015, 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.

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.
--

6. The right to be transferred is as follows:

Certificate: 81232 in the name of WILLIE A. and LINDA S. OLSON (perfected under Permit G-9421)
Use: IRRIGATION of 62.8 ACRES
Priority Date: JULY 6, 1981
Rate: 0.79 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 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 in the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	18 E	WM	12	SE NW	1380 FEET SOUTH AND 1350 FEET EAST FROM THE NW CORNER OF SECTION 12

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	18 E	WM	12	NE NW	28.0
26 S	18 E	WM	12	SE NW	34.8
Total Acres:					62.8

7. Transfer Application T-11943 proposes to move the authorized point of appropriation approximately 3.6 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	18 E	WM	26	NW SW	1327 FEET SOUTH AND 1335 FEET EAST FROM THE W 1/4 CORNER OF SECTION 26

8. Transfer Application T-11943 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	18 E	WM	26	NE SW	31.4
26 S	18 E	WM	26	SE SW	31.4
Total Acres:					62.8

Transfer Review Criteria (OAR 690-380-4010)

9. Water has been used within the last five years prior to the submittal of Transfer Application T-11943 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.

10. 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-11943.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Determination and Proposed Action

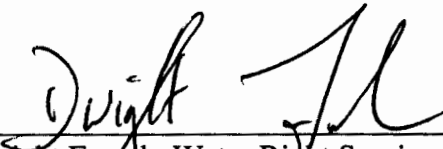
The change in point of appropriation and change in place of use proposed in Transfer Application T-11943 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11943 is approved, the final order will include the following:

1. *The change in point of appropriation and change in place of use proposed in Transfer Application T-11943 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 81232 and any related decree.*
3. *Water right Certificate 81232 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 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 the new point of appropriation.*
 - b. *The water user shall maintain the meter or measuring device in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is 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 point of appropriation.*
7. *The former place of use of the transferred right shall no longer receive water under the right.*

8. *Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.*
9. *Dedicated Measuring Tube: Wells with pumps shall be equipped with a minimum 3/4-inch diameter, unobstructed, dedicated measuring tube pursuant to figure 200-5 in OAR 690-200. If a pump has been installed prior to the issuance of this permit, and if static water levels and pumping levels can be measured using an electrical tape, then the installation of the measuring tube can be delayed until such time that water levels cannot be measured or the pump is repaired or replaced.*
10. *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.*
11. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 17 day of June, 2015.



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

This Preliminary Determination was prepared by a Reimbursement Authority Contractor. If you have questions about the information in this document, you may reach Tracy Fox at 503 986-0827 or Tracy.L.Fox@wrdd.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.