



# Oregon

Kate Brown, Governor

## Water Resources Department

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October 27, 2015

ANTONIO RUIZ  
84050 YELLOWJACKET RD  
MILTON FREEWATER, OR 97862

SUBJECT: Water Right Transfer Application T-11995

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11995. 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 East Oregonian 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 [Lanaya.F.Blakely@ wrd.state.or.us](mailto:Lanaya.F.Blakely@ wrd.state.or.us) or (503) 986-0888, if I may be of assistance.

Sincerely,

Lanaya Blakely  
Transfer Specialist  
Transfer and Conservation Section

cc: T-11995



Greg Silbernagel, District 5 Watermaster (via e-mail)  
Pleasant View Irrigation Company/District  
Walla Walla River Irrigation District  
Hudson Bay District Improvement Company  
Dale G. VanSchoiack, CWRE #333 (via e-mail)

← Pleasant View ID  
← Walla Walla are  
same entity

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11995, Umatilla County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN POINTS OF DIVERSION

**Authority**

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

**Applicant**

ANTONIO RUIZ  
84050 YELLOWJACKET ROAD  
MILTON FREEWATER, OR 97862

**Findings of Fact**

1. On March 2, 2015, PAULETTE OLIVER filed an application to change the points of diversion under Certificates 86961 and 86964. The Department assigned the application number T-11995.
2. Notice of the application for transfer was published on March 17, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 27, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11995 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 20, 2015, for the applicant to respond.
4. On April 30, 2015 the applicant filed a request for assignment. On May 4, 2015, transfer T-11995 was assigned to ANTONIO RUIZ.
5. On May 7, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11995 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 8, 2015, for the applicant to respond. The applicant did not respond by the deadline.

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. On July 21, 2015, the Department notified the applicant by mail that consent from all deeded landowners was required to pursue the transfer. On August 17, 2015, the applicant provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer and requested that the Department proceed with issuance of a Preliminary Determination.

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

**Certificate:** 86961 in the name of PLEASANT VIEW IRRIGATION COMPANY AND WALLA WALL RIVER IRRIGATION DISTRICT (perfected under Permit S-1216)  
**Use:** IRRIGATION of 29.0 ACRES  
**Priority Date:** MARCH 25, 1912  
**Rate:** 0.36 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 during the irrigation season of each year  
**Source:** LITTLE WALLA WALLA RIVER, a tributary of the WALLA WALLA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	35 E	WM	35	SE SE	5 FEET NORTH AND 1100 FEET WEST FROM THE SE CORNER OF SECTION 35

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	35 E	WM	28	SE SW	19.0
6 N	35 E	WM	28	SW SE	10.0

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

**Certificate:** 86964 in the name of PLEASANT VIEW IRRIGATION DISTRICT AND WALLA WALLA RIVER IRRIGATION DISTRICT (perfected under Permit S-26001)  
**Use:** SUPPLEMENTAL IRRIGATION of 29.0 ACRES  
**Priority Date:** JANUARY 16, 1959  
**Rate:** 0.73 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 0.0375 of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.  
**Source:** LITTLE WALLA WALLA RIVER, a tributary of the WALLA WALLA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q
5 N	35 E	WM	2	NE NE

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	35 E	WM	28	SE SW	19.0
6 N	35 E	WM	28	SW SE	10.0

9. Transfer Application T-11995 proposes to move the authorized point of diversion approximately 7,000 feet (Certificate 86964) to 8,500 feet (Certificate 86961) upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	35 E	WM	12	SW NE	1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER OF SECTION 12

10. The Oregon Department of Fish and Wildlife has 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 currently equipped with an appropriate fish screen.

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

11. 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.
12. 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-11995.
13. The proposed changes would not result in enlargement of the rights.
14. The proposed changes as conditioned would not result in injury to other water rights.

**Determination and Proposed Action**

The change in points of diversion proposed in Transfer Application T-11995 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-11995 is approved, the final order will include the following:*

1. *The changes in points of diversion proposed in Transfer Application T-11995 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 86961 and 86964 and any related decree.*

3. *Water right Certificates 86961 and 86964 are cancelled. New certificates will be issued describing that portion of the rights not affected by this transfer.*
4. *The quantity of water diverted at the new point of diversion, together with that diverted at the original points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.*
5. *The Director may require the water user to install a totalizing flow meter or other suitable measuring device at the location where water is removed from the Hudson Bay Canal and applied to the field., If the Director notifies the water user to install totalizing flow meters or other measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices. When required the water user shall install a totalizing flowmeter.*
6. *The water user shall operate and maintain an approved fish screen at the new point of diversion. If Oregon Department of Fish and Wildlife (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.*
7. *The water rights confirmed by Transfer T-11995 shall be subordinate to all other currently existing water rights with a Point of Diversion located in the Hudson Bay Canal, between "the Frog Structure" and the authorized Place of Use, in order to address potential injury to current junior users being regulated off in the event that the Hudson Bay Canal is at maximum capacity.*
8. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2017**. 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.*

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

Dated at Salem, Oregon this 27 day of October, 2015.

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

This Preliminary Determination was prepared by Lanaya Blakely. If you have question about the information in this document, you may reach me at (503) 986-0888 or Lanaya.F.Blakely@ wrd.state.or.us.

*Protests should be addressed to the attention of Water Rights Services Division, Water Resources Department, 725 Summer St. NE. Suite A, Salem, OR 97301-1266*