



# Oregon

Kate Brown, Governor

**Water Resources Department**

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

September 14, 2016

VIA E-MAIL

BRAD E ALLEN  
48748 McCARTY BRIDGE ROAD  
NORTH POWDER OR 97867  
Bradallen4030@hotmail.com

SUBJECT: Water Right Transfer Application T-12286

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12286. 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@wr.d.state.or.us](mailto:Patrick.K.Starnes@wr.d.state.or.us) if I may be of assistance.

Sincerely,

Kelly Starnes  
Transfer Program Analyst  
Transfer and Conservation Section

cc: Transfer Application file T-12286  
Rick M. Lusk, Watermaster 8 District (*via e-mail*)  
Nancy L. Rorick, Agent/CWRE for the applicant (*via e-mail*)

encs



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

**Certificate:** 50115 in the name of WALTER JACOBSON (perfected under Permit S-31337)

**Use:** IRRIGATION OF 53.4 ACRES

**Priority Date:** FEBRUARY 15, 1966

**Rate:** 0.78 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-FORTIETH 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** POWDER RIVER, tributary to the SNAKE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	39 E	WM	11	NE SW	1100 FEET SOUTH AND 70 FEET EAST FROM THE NW CORNER OF THE NE¼ SW¼ OF SECTION 11

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
7 S	40 E	WM	7	NE SW	1	0.4
7 S	40 E	WM	7	NW SW	2	11.2
7 S	40 E	WM	7	SW SW	2	18.3
7 S	40 E	WM	7	SE SW	1	19.2
7 S	40 E	WM	18	NW NE		0.3
7 S	40 E	WM	18	NE NW	1	4.0
Total						53.4

6. Transfer Application T-12286 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	24	NE NE	22.0
7 S	39 E	WM	24	SE NE	31.4
Total					53.4

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

**Certificate:** 64145 in the name of FARM CREDIT BANK OF SPOKANE (perfected under Permit S-42470)  
**Use:** SUPPLEMENTAL IRRIGATION OF 53.4 ACRES  
**Priority Date:** APRIL 29, 1975  
**Rate:** 0.86 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-FORTIETH 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** AN UNNAMED SLOUGH, tributary to the POWDER RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	39 E	WM	11	NE SW	450 FEET SOUTH AND 500 FEET WEST FROM THE C <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 11

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
7 S	40 E	WM	7	NE SW	1	0.4
7 S	40 E	WM	7	NW SW	2	11.2
7 S	40 E	WM	7	SW SW	2	18.3
7 S	40 E	WM	7	SE SW	1	19.2
7 S	40 E	WM	18	NW NE		0.3
7 S	40 E	WM	18	NE NW	1	4.0
Total						53.4

8. Transfer Application T-12286 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	24	NE NE	22.0
7 S	39 E	WM	24	SE NE	31.4
Total					53.4

9. The portion of the third right to be transferred is as follows:

**Certificate:** 64146 in the name of FARM CREDIT BANK OF SPOKANE (perfected under Permit S-42472)  
**Use:** IRRIGATION OF 147.4 ACRES  
**Priority Date:** AUGUST 10, 1976  
**Rate:** 2.5 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-FORTIETH 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** POWDER RIVER, WITH ANY DEFICIENCY IN THE AVAILABLE SUPPLY FROM POWDER RIVER TO BE MADE UP BY DIVERSION FROM AN UNNAMED SLOUGH, tributary to the SNAKE RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	39 E	WM	11	NE SW	RIVER - 1050 FEET SOUTH AND 1290 FEET WEST FROM THE C <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 11
7 S	39 E	WM	11	NE SW	SLOUGH - 450 FEET SOUTH AND 500 FEET WEST FROM THE C <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 11

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
7 S	40 E	WM	7	SW NE		3.7
7 S	40 E	WM	7	SW NW	2	2.1
7 S	40 E	WM	7	SE NW		14.0
7 S	40 E	WM	7	NE SW		39.6
7 S	40 E	WM	7	NW SW	2	13.0
7 S	40 E	WM	7	SE SW		20.8
7 S	40 E	WM	7	NW SE		29.4
7 S	40 E	WM	7	SW SE		24.8
Total						147.4

10. Transfer Application T-12286 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
7 S	39 E	WM	11	SE SW		13.5
7 S	39 E	WM	11	SW SE		0.3
7 S	39 E	WM	13	NW SE		0.7
7 S	39 E	WM	13	SW SE		17.7
7 S	39 E	WM	13	SE SE		35.9
7 S	39 E	WM	14	NW NE		20.3
7 S	39 E	WM	14	NE NW		37.8
7 S	39 E	WM	24	NE NE		8.6
7 S	40 E	WM	7	SW SE		2.2
7 S	40 E	WM	18	SW SW	1	10.4
Total						147.4

***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 right. 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-12286.
13. The proposed change would not result in enlargement of the rights.
14. The proposed change would not result in injury to other water rights.

**Determination and Proposed Action**

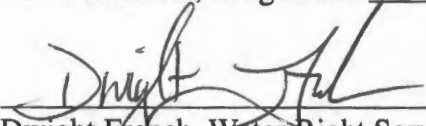
The change in place of use proposed in Transfer Application T-12286 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-12286 is approved, the final order will include the following:*

1. *The change in place of use proposed in Transfer Application T-12286 is 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 50115, 64145, and 64146, and any related decree.*
3. *Water right Certificates 50115, 64145, and 64146 are cancelled. New certificates will be issued describing that portion of the rights not affected by this transfer.*
4. *The former place of use of the transferred rights shall no longer receive water under the rights.*
5. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before October 1, 2022. 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 change and full beneficial use of the water.*

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

Dated at Salem, Oregon this 15 day of September, 2016.

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

This Preliminary Determination was prepared by Marcy Osborn. If you have questions about the information in this document, you may reach me at 541-523-8224 ext.228 or marcy.j.osborn@ 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.*

**Notice Regarding Service Members:** Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>