



# Oregon

Kate Brown, Governor

Water Resources Department  
725 Summer St NE, Suite A  
Salem, OR 97301  
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September 14, 2016

**Applicant**

SIEGERS RIVERSIDE RANCH LLC.  
P.O. BOX 33  
RIVERSIDE OR 97918

**Agent Listed on Application:**

CK3, LLC  
368 SW 5<sup>TH</sup> AVENUE  
ONTARIO OR 97914

SUBJECT: Water Right Transfer Application T-11492

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11492. 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@wrdd.state.or.us](mailto:Patrick.K.Starnes@wrdd.state.or.us) if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst  
Transfer and Conservation Section

cc: Transfer Application file T-11492  
JR Johnson, Watermaster 10 District (*via e-mail*)  
CK3, LLC, Agent/CWRE for the applicant (*via e-mail*)

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9. On March 13, 2015, the agent submitted a revised transfer application and map modifying the transfer to change the place of use only.
10. On June 2, 2016, the watermaster submitted a revised watermaster review requiring a measuring device on POD 1 only which is further described in finding of fact No. 18 .
11. On February 2, 2016, the Department sent a copy of the Draft Preliminary Determination proposing to approve Transfer Application T-11492 to the applicant. The applicant addressed some issues with the conditions in the Draft Preliminary Determination.
12. On June 2, 2016, the Department sent a revised copy of the Draft Preliminary Determination proposing to approve Transfer Application T-11492 to the applicant. The applicant's agent 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.
13. The portion of the first right to be transferred is as follows:

**Certificate:** 6959 in the name of EVA & H. C. LUCE (confirmed by Malheur River Decree)

**Use:** IRRIGATION OF 53.5 ACRES

**Priority Date:** 1902

**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-TWENTIETH 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 1.5 acre feet per acre in any 30 day period prior to June 1st, 1.0 acre foot per acre in any 30 day period after June 1st of each year, or 3.0 acre feet per acre during any season diverted during the irrigation season of each year.

**Source:** TRISH HOT SPRINGS, tributary to the South Fork of the Malheur River

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	37 E	WM	20	SE SW	20.5
24 S	37 E	WM	20	SW SE	23.0
24 S	37 E	WM	29	NW NE	4.5
24 S	37 E	WM	29	NE NW	5.5
Total					53.5

14. Certificate 6959 does not describe the location of the points of diversion, however information is available from the transfer application and map which indicates that the points of diversion are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Measured Distances
24 S	37 E	WM	20	NE SW	700	SPRING - 1690 FEET NORTH AND 1700 FEET EAST FROM THE SW CORNER OF SECTION 20
24 S	37 E	WM	20	NE SW	700	SPRING - 1460 FEET NORTH AND 2500 FEET EAST FROM THE SW CORNER OF SECTION 20
24 S	37 E	WM	20	NW SE	700	SPRING - 1460 FEET NORTH AND 2650 FEET EAST FROM THE SW CORNER OF SECTION 20
24 S	37 E	WM	20	SW SE	2000	SPRING - 1160 FEET NORTH AND 3110 FEET EAST FROM THE SW CORNER OF SECTION 20

15. Transfer Application T-11492 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
24 S	37 E	WM	29	NE NW	2000	8.0
24 S	37 E	WM	29	NW NW	2000	10.0
24 S	37 E	WM	29	SW NW	2000	29.5
24 S	37 E	WM	29	SE NW	2000	6.0
Total						53.5

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

**Certificate:** 52789 in the name of WAYNE J BLAYLOCK (perfected under Permit S-34061)

**Use:** IRRIGATION OF 7.8 ACRES AND SUPPLEMENTAL IRRIGATION OF 28.2 ACRES

**Priority Date:** FEBRUARY 5, 1969

**Rate:** 0.20 CUBIC FOOT PER SECOND (CFS); BEING 0.07 CFS FROM DIVERSION 1, 0.03 CFS FROM DIVERSION 2 AND 0.10 CFS FROM DIVERSION 3

**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 from direct flow 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 from direct flow and storage from reservoirs constructed under Permit R-5403 and further limited to the use of stored water only on the lands described as supplemental.

**Sources:** THREE UNNAMED STREAMS AND RESERVOIRS 1, 2, AND 3, CONSTRUCTED UNDER PERMIT R-5403, tributary to the SOUTH FORK OF THE MALHEUR RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	37 E	WM	20	SE SW	DIVERSION 2 - 700 FEET NORTH AND 2080 FEET EAST FROM THE SW CORNER OF SECTION 20
24 S	37 E	WM	20	SE SW	DIVERSION 3: 280 FEET NORTH AND 1800 FEET EAST FROM THE SW CORNER OF SECTION 20
24 S	37 E	WM	20	SW SE	DIVERSION 1: 1100 FEET NORTH AND 3100 FEET EAST FROM THE SW CORNER OF SECTION 20

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	37 E	WM	20	SE SW	0.8
24 S	37 E	WM	29	NE NW	6.9
24 S	37 E	WM	29	NW NW	0.1
Total					7.8

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	37 E	WM	20	SE SW	9.9
24 S	37 E	WM	20	SW SE	15.0
24 S	37 E	WM	29	NW NE	1.6
24 S	37 E	WM	29	NE NW	1.7
Total					28.2

17. Transfer Application T-11492 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
24 S	37 E	WM	29	SW NW	2000	4.8
24 S	37 E	WM	29	SE NW	2000	3.0
Total						7.8

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
24 S	37 E	WM	29	NW NW	2000	2.8
24 S	37 E	WM	29	SW NW	2000	25.4
Total						28.2

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

**Certificate:** 52791 in the name of WAYNE J. BLAYLOCK (perfected under Permit S-40680)

**Use:** SUPPLEMENTAL IRRIGATION OF 24.4 ACRES

**Priority Date:** MARCH 27, 1974

**Rate:** 0.244 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 from direct flow 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 from direct flow and storage from reservoir constructed under Permit R-6483

**Sources:** SOUTH FORK MALHEUR RIVER AND RESERVOIR NO. 2, CONSTRUCTED UNDER PERMIT R-6483, tributary to the MALHEUR RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	37 E	WM	20	SE SW	RESERVOIR NO. 2 - 700 FEET NORTH AND 2080 FEET EAST FROM THE SW CORNER OF SECTION 20
24 S	37 E	WM	29	NE NW	RIVER (AKA POD) #1 - 680 FEET SOUTH AND 2580 FEET EAST FROM THE SW CORNER OF SECTION 20

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	37 E	WM	20	SE SW	13.8
24 S	37 E	WM	20	SW SE	5.9
24 S	37 E	WM	29	NW NE	1.6
24 S	37 E	WM	29	NE NW	3.0
24 S	37 E	WM	29	NW NW	0.1
Total					24.4

19. Transfer Application T-11492 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	37 E	WM	29	NE NW	4.9
24 S	37 E	WM	29	NW NW	6.8
24 S	37 E	WM	29	SW NW	11.5
24 S	37 E	WM	29	SE NW	1.2
Total					24.4

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

20. 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.
21. 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-11492.
22. The proposed change would not result in enlargement of the rights.
23. The proposed change would not result in injury to other water rights.

**Determination and Proposed Action**

The change in places of use 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-11492 is approved, the final order will include the following:*


1. *The change in places of use proposed in Transfer Application T-11492 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 6959, 52789, 52791, and any related decree.*
3. *Water right certificate 52789 is cancelled.*
4. *Water right certificates 6959 and 52791 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
5. *The former place of use of the transferred rights shall no longer receive water under the rights.*
6. *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 following point of diversion:*

*Authorized Point of Diversion, as described on the March 13, 2015 transfer application map and in Water Right Certificate 52791:*

<i>Twp</i>	<i>Rng</i>	<i>Mer</i>	<i>Sec</i>	<i>Q-Q</i>	<i>Measured Distances</i>
24 S	37 E	WM	29	NE NW	POD #1 - 680 FEET SOUTH AND 2580 FEET EAST FROM THE SW CORNER OF SECTION 20

- 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.*
7. *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 change and full beneficial use of the water.*
8. *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.

  
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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 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@ wrd.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.