



Oregon

Kate Brown, Governor

Water Resources Department

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September 23, 2016

VIA E-MAIL

WILLIAM L. AND CINDY R. ROMANS
3801 OLD STAGE RD
HARPER, OR 97906
bromans@hotmail.com

SUBJECT: Water Right Transfer Application T-11983

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11983. 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 Malheur Enterprise 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 503-986-0886 or Patrick.K.Starnes@wrд.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst

Transfer and Conservation Section

cc: Transfer Application file T-11983
Ronald K. Jacobs, District 9 Watermaster (*via e-mail*)
Nancy Rorick, Agent for the applicant (*via e-mail*)

encs

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11983, Malheur County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN POINTS OF DIVERSION,
	)	A CHANGE IN PLACE OF USE, A
	)	CHANGE IN CHARACTER OF USE
	)	FROM SUPPLEMENTAL IRRIGATION
	)	TO PRIMARY IRRIGATION, A
	)	CANCELLATION OF A WATER
	)	RIGHT, AND A PARTIAL
	)	CANCELLATION OF A WATER
	)	RIGHT

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish 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 Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department’s procedures and criteria for evaluating transfer applications. ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

WILLIAM L.AND CINDY R. ROMANS
3801 OLD STAGE RD
HARPER, OR 97906
bromans@hotmail.com

Findings of Fact

1. On February 19, 2015, WILLIAM L. AND CINDY R. ROMANS filed an application to change the points of diversion, change the place of use, change the character of use from supplemental irrigation to primary irrigation under Certificates 6954, 51081, 51082, 51105, 51106, 51107, 51108, 51109, and 51934, a cancellation of a water right under Certificate 51114, and a partial cancellation of a water right under Certificate 51083. The Department assigned the application number T-11983.
2. Notice of the application for transfer was published on March 3, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 22, 2016, the applicant submitted a revised application and maps.

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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4. On August 12, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11983 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of September 12, 2016, for the applicants to respond. The applicants requested that the completion date be extended to October 1, 2022 and for Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
5. The portion of the first right to be transferred is as follows:

Certificate: 6954 in the name of NANCY KIME (confirmed by Malheur River Decree)
Use: IRRIGATION OF 88.6 ACRES
Priority Date: 1881 FOR TRACT #1, 1886 FOR TRACT #2
Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not 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 at a rate not to exceed one-twentieth of a cubic foot per second per acre.
Source: BULLY CREEK, tributary to the MALHEUR RIVER

Authorized Place of Use:

IRRIGATION						
Tract 1 - Priority Date 1881						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of change
						POU/POD (acres)
18 S	41 E	WM	26	NE NW	3.8	3.8
18 S	41 E	WM	26	NE SW	7.8	7.8
Total					11.6	

IRRIGATION							
Tract 2 - Priority Date 1886							
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of change	
						POU/POD (acres)	POD only (acres)
18 S	41 E	WM	26	SW SW	11.5	11.5	-
18 S	41 E	WM	26	SE SW	12.5	0.9	11.6
18 S	41 E	WM	26	SW SE	31.5	0.9	30.6
18 S	41 E	WM	27	NE SE	3.5	3.5	-
18 S	41 E	WM	35	NW NE	7.5	0.8	6.7
18 S	41 E	WM	35	NE NW	10.5	-	10.5
Total					77.0		

6. Certificate 6954 does not describe the location of the points of diversion, however information is available from the Malheur River Decree tabulation indicating that the points of diversion are named as follows:

Tract	Ditch Name
1	REEVES DITCH
2	DESERT DITCH

7. Transfer Application T-11983 proposes to move the authorized points of diversion approximately 1.75 miles from the Reeves ditch and 1.3 miles from the Desert ditch downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	26	NW SE	POD 2 - 1400 FEET NORTH AND 2030 FEET WEST FROM THE SE CORNER OF SECTION 26

8. Transfer Application T-11983 also proposes to change the place of use of the right to:

IRRIGATION Priority Date 1881					
Twp	Rng	Mer	Sec	Q-Q	Acres
18 S	41 E	WM	26	SW SW	3.4
18 S	41 E	WM	26	SE SW	6.6
18 S	41 E	WM	35	NW NE	1.5
18 S	41 E	WM	35	SW NE	0.1
Total					11.6

IRRIGATION Priority Date 1886					
Twp	Rng	Mer	Sec	Q-Q	Acres
18 S	41 E	WM	26	SW SW	0.4
18 S	41 E	WM	26	SE SW	6.9
18 S	41 E	WM	26	NW SE	0.2
18 S	41 E	WM	26	SW SE	5.1
18 S	41 E	WM	35	NW NE	2.3
18 S	41 E	WM	35	NE NW	2.7
Total					17.6

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

Certificate: 51081 in the name of LLOYD M. HILL, INC. (perfected under Permit S-34023)
Use: SUPPLEMENTAL IRRIGATION OF 55.4 ACRES
Priority Date: NOVEMBER 18, 1968
Rate: 1.39 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: BULLY CREEK, tributary to the MALHEUR RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	25	SE NE	POD 1 - 1860 FEET SOUTH AND 410 FEET WEST FROM THE NE CORNER OF SECTION 25

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
18 S	41 E	WM	25	NE NE		3.8
18 S	41 E	WM	25	SW NE		10.8
18 S	41 E	WM	25	SE NE		2.0
18 S	42 E	WM	30	NE NW		14.4
18 S	42 E	WM	30	NW NW	1	17.4
18 S	42 E	WM	30	SW NW	2	3.3
18 S	42 E	WM	30	SE NW		0.1
18 S	42 E	WM	30	NE SW		1.6
18 S	42 E	WM	30	NW SW	3	0.3
18 S	42 E	WM	30	SW SW	4	1.7
Total						55.4

10. Transfer Application T-11983 proposes to move the authorized point of diversion for a portion of the right approximately 1.3 miles upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	26	NW SE	POD 2 - 1400 FEET NORTH AND 2030 FEET WEST FROM THE SE CORNER OF SECTION 26

11. Transfer Application T-11983 proposes to change the character of use from supplemental irrigation to primary irrigation.

12. Transfer Application T-11983 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	POD NAME
18 S	41 E	WM	25	SE NE	0.1	POD 1
18 S	41 E	WM	25	NE SE	22.4	POD 1
18 S	41 E	WM	25	NW SE	2.1	POD 1
18 S	41 E	WM	25	SE SE	4.4	POD 1
18 S	41 E	WM	35	NW NE	4.9	POD 2
18 S	41 E	WM	35	SW NE	18.0	POD 2
18 S	42 E	WM	30	SW NW	0.3	POD 1
18 S	42 E	WM	30	NE SW	0.6	POD 1
18 S	42 E	WM	30	SW SW	2.6	POD 1
Total					55.4	

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

Certificate: 51082 in the name of LLOYD M. HILL, INC. (perfected under Permit S-43617)
Use: IRRIGATION OF 42.4 ACRES
Priority Date: AUGUST 31, 1978
Rate: 1.06 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: BULLY CREEK, tributary to the MALHEUR RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	26	NW SE	POD 2 - 1490 FEET NORTH AND 2030 FEET WEST FROM THE SE CORNER OF SECTION 26

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
18 S	41 E	WM	25	NE SW	0.3
18 S	41 E	WM	25	NW SW	3.9
18 S	41 E	WM	25	SW SW	7.9
18 S	41 E	WM	25	SE SW	2.3
18 S	41 E	WM	26	NE SE	22.0
18 S	41 E	WM	26	SE SE	6.0
Total					42.4

14. On June 30, 1982, Certificate 51082 was issued after satisfactory proof had been submitted. Certificate 51082 contained a scrivener's error describing the authorized point of diversion. The correct description of the point of diversion is listed below:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	26	NW SE	POD 2 - 1400 FEET NORTH AND 2030 FEET WEST FROM THE SE CORNER OF SECTION 26

15. Transfer Application T-11983 proposes to move the authorized point of diversion for a portion of the right approximately 1.3 miles upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	27	NE NW	POD 4 - 1120 FEET SOUTH AND 2130 FEET EAST FROM THE NW CORNER OF SECTION 27

16. Transfer Application T-11983 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	POD NAME
18 S	41 E	WM	25	NE SW	4.2	POD 2
18 S	41 E	WM	25	NW SW	2.3	POD 2
18 S	41 E	WM	25	SW SW	12.7	POD 2
18 S	41 E	WM	25	SE SW	0.1	POD 2
18 S	41 E	WM	26	NW SW	0.7	POD 4
18 S	41 E	WM	26	SW SW	5.3	POD 4
18 S	41 E	WM	26	SE SE	11.1	POD 2
18 S	41 E	WM	27	NE SE	2.0	POD 4
18 S	41 E	WM	27	SE SE	0.5	POD 4
18 S	41 E	WM	35	SW NE	3.5	POD 2
Total					42.4	

17. The portion of the fourth right to be transferred is as follows:

Certificate: 51105 in the name of LLOYD M. HILL, INC. (confirmed by Malheur River Decree)

Use: IRRIGATION OF 9.8 ACRES

Priority Date: 1876

Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed one and one-half acre feet per acre in any 30-day period prior to June 1st, one acre foot per acre in any 30-day period after June 1st of each year, or three acre feet per acre in any season, diverted at a rate not to exceed one-twentieth of a cubic foot per second per acre.

Source: BULLY CREEK, tributary to the MALHEUR RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Ditch Name
18 S	41 E	WM	27	NW NW	REEVES DITCH

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
18 S	41 E	WM	26	NW NE	3.2
18 S	41 E	WM	26	SE NE	4.4
18 S	41 E	WM	26	NE SE	2.2
Total					9.8

18. On March 9, 1967, Certificate 7055 was cancelled by Special Order Volume 15, pages 461-469, which approved transfer D-118, and was superseded by Certificate 51105. Certificate 51105 contained a scrivener's error describing the authorized place of use.

Twp	Rng	Sec	C-51105 Description of Place of Use		Corrected Description of Place of Use	
			Q-Q	Acres	Q-Q	Acres
18 S	41 E	26	NW NE	3.2	SW NE	3.2

19. Transfer Application T-11983 proposes to move the authorized point of diversion for a portion of the right approximately 1.75 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	26	NW SE	POD 2 - 1400 FEET NORTH AND 2030 FEET WEST FROM THE SE CORNER OF SECTION 26

20. Transfer Application T-11983 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	POD NAME
18 S	41 E	WM	26	NW NE	3.0	REEVES DITCH
18 S	41 E	WM	26	SW SW	0.5	POU / POD
18 S	41 E	WM	26	SE SW	1.7	POU / POD
18 S	41 E	WM	35	NW NE	4.1	POU / POD
18 S	41 E	WM	35	SW NE	0.5	POU / POD
Total					9.8	

21. The portion of the fifth right to be transferred is as follows:

Certificate: 51106 in the name of LLOYD M. HILL, INC. (confirmed by Malheur River Decree)

Use: IRRIGATION OF 44.6 ACRES

Priority Date: 1876 FOR TRACT 2 AND 1883 FOR TRACT 3

Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed one and one-half acre feet per acre in any 30-day period prior to June 1st, one acre foot per acre in any 30-day period after June 1st of each year, or three acre feet per acre in any season, diverted at a rate not to exceed one-twentieth of a cubic foot per second per acre.

Source: BULLY CREEK, tributary to the MALHEUR RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	25	SE NE	POD 1 - 1860 FEET SOUTH AND 410 FEET WEST FROM THE NE CORNER OF SECTION 25

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority	Tract
18 S	41 E	WM	25	NE NE	18.0	1876	1
18 S	41 E	WM	25	NE NE	1.3	1883	2
18 S	41 E	WM	25	NW NE	1.9	1883	2
18 S	41 E	WM	25	SW NE	13.7	1883	2
18 S	41 E	WM	25	SE NE	9.7	1883	2
Total					44.6		

22. Transfer Application T-11983 proposes to move the authorized point of diversion for a portion of the right approximately 1.35 miles upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	26	NW SE	POD 2 - 1400 FEET NORTH AND 2030 FEET WEST FROM THE SE CORNER OF SECTION 26

23. Transfer Application T-11983 also proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority	POD NAME
18 S	41 E	WM	25	NE NE	18.6	1883	POD 1
18 S	41 E	WM	25	NW NE	2.4	1876	POD 2
18 S	41 E	WM	25	NW NE	5.2	1883	POD 1
18 S	41 E	WM	25	SW NE	0.3	1876	POD 2
18 S	41 E	WM	25	SW NE	4.1	1876	POD 1
18 S	41 E	WM	25	SE NE	0.1	1876	POD 2
18 S	41 E	WM	25	NE NW	1.7	1876	POD 2
18 S	41 E	WM	25	SE NW	4.1	1876	POD 2
18 S	41 E	WM	35	SW NE	5.3	1876	POD 2
18 S	42 E	WM	30	SE NW	2.8	1883	POD 1
Total					44.6		

24. The portion of the sixth right to be transferred is as follows:

Certificate: 51107 in the name of LLOYD M. HILL, INC. (confirmed by Malheur River Decree)
Use: IRRIGATION OF 41.6 ACRES
Priority Date: 1886
Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed one and one-half acre feet per acre in any 30-day period prior to June 1st, one acre foot per acre in any 30-day period after June 1st of each year, or three acre feet per acre in any season, diverted at a rate not to exceed one-twentieth of a cubic foot per second per acre.
Source: BULLY CREEK, tributary to the MALHEUR RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	26	NW SE	POD 2 - 1400 FEET NORTH AND 2030 FEET WEST FROM THE SE CORNER OF SECTION 26
18 S	41 E	WM	27	NE NW	POD 4 - 1120 FEET SOUTH AND 2130 FEET EAST FROM THE NW CORNER OF SECTION 27

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
18 S	41 E	WM	25	SW NW	3.0
18 S	41 E	WM	25	SE NW	4.0
18 S	41 E	WM	25	NW SW	9.2
18 S	41 E	WM	25	SW SW	12.2
18 S	41 E	WM	26	SE SE	13.2
Total					41.6

25. Transfer Application T-11983 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
18 S	41 E	WM	25	NW SW	3.8
18 S	41 E	WM	25	SW SW	9.0
18 S	41 E	WM	26	NE SE	23.8
18 S	41 E	WM	26	SE SE	5.0
Total					41.6

26. The portion of the seventh right to be transferred is as follows:

Certificate: 51108 in the name of LLOYD M. HILL, INC. (confirmed by Malheur River Decree)
Use: IRRIGATION OF 28.2 ACRES
Priority Date: 1883
Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed one and one-half acre feet per acre in any

30-day period prior to June 1st, one acre foot per acre in any 30-day period after June 1st of each year, or three acre feet per acre in any season, diverted at a rate not to exceed one-twentieth of a cubic foot per second per acre; if available at the original point of diversion; NW¼ SE¼, Sec. 26, T18S, R41E, WM; 650 feet South and 1900 feet West from the E¼ corner of Section 26.

Source: BULLY CREEK, tributary to the MALHEUR RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	25	SE NE	POD 1 - 1860 FEET SOUTH AND 410 FEET WEST FROM THE NE CORNER OF SECTION 25

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
18 S	42 E	WM	30	SW NW	10.2
18 S	42 E	WM	30	SE NW	18.0
Total					28.2

27. Transfer Application T-11983 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
18 S	41 E	WM	25	SE NE		1.1
18 S	42 E	WM	30	NE NW		10.2
18 S	42 E	WM	30	NW NW	1	14.6
18 S	42 E	WM	30	SW NW	2	1.0
18 S	42 E	WM	30	SE NW		1.3
Total						28.2

28. The eighth right to be transferred is as follows:

Certificate: 51109 in the name of LLOYD M. HILL, INC. (perfected under Permit E-129)

Use: IRRIGATION OF 14.0 ACRES

Priority Date: FEBRUARY 7, 1912

Rate: 0.18 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-EIGHTIETH of one cubic foot per second per acre; if available at the original point of diversion; NW¼ NW¼, Sec. 27, T18S, R41E, WM; Reeves Ditch.

Source: BULLY CREEK, tributary to the MALHEUR RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	25	SE NE	POD 1 - 1860 FEET SOUTH AND 410 FEET WEST FROM THE NE CORNER OF SECTION 25

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
18 S	41 E	WM	25	NE NE	7.0
18 S	41 E	WM	25	NW NE	7.0
Total					14.0

29. Transfer Application T-11983 proposes to move the authorized point of diversion approximately 2.9 miles upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	27	NE NW	POD 4 - 1120 FEET SOUTH AND 2130 FEET EAST FROM THE NW CORNER OF SECTION 27

30. Transfer Application T-11983 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
18 S	41 E	WM	26	SW SW	14.0

31. The portion of the ninth right to be transferred is as follows:

Certificate: 51934 in the name of LLOYD M. HILL, INC. (perfected under Permit S-43658)

Use: IRRIGATION OF 45.4 ACRES

Priority Date: OCTOBER 3, 1978

Rate: 0.57 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-EIGHTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: COTTONWOOD CREEK, tributary to BULLY CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
19 S	40 E	WM	3	SE SW	POD 5 - 1130 FEET NORTH AND 1420 FEET EAST FROM THE SW CORNER OF SECTION 3

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
19 S	40 E	WM	3	NE NE	1	9.0
19 S	40 E	WM	3	SW NE		10.4
19 S	40 E	WM	3	SE NE		26.0
Total						45.4

32. Transfer Application T-11983 proposes to move the authorized point of diversion approximately 7.9 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	26	NW SE	POD 2 - 1400 FEET NORTH AND 2030 FEET WEST FROM THE SE CORNER OF SECTION 26

33. Transfer Application T-11983 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
18 S	41 E	WM	35	NW NE	1	9.2
18 S	41 E	WM	35	SW NE		10.0
18 S	41 E	WM	35	NE NW		7.5
18 S	41 E	WM	35	SE NW		18.7
Total						45.4

34. Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new points of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. The diversion may be eligible for screening cost-share funds.

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

35. 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.
36. 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-11983.
37. The proposed changes would not result in enlargement of the rights.
38. The proposed changes would not result in injury to other water rights.

Partial Cancellation of a Water Right

39. On August 8, 2016 an affidavit certifying that an entire water right has been abandoned and requesting cancellation of the right upon approval of Transfer Application T-11983 was received from William and Cindy Romans. The right to be cancelled is as follows:

Certificate: 51114 in the name of LLOYD H. HILL, INC (Perfected under Permit G-4429)

Use: IRRIGATION OF 42.4 ACRES

Priority Date: NOVEMBER 18, 1968

Rate: 0.53 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-EIGHTIETH 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 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year; provided further that the amount of water re-diverted from the channel of Bully Creek and Dry Creek shall not exceed the amount by which the flow of Bully Creek at the point of re-diversion is increased above the natural flow by the operation of said well.

Source: WELL 1, tributary to DRY CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	23	SW NW	WELL 1 - 3830 FEET NORTH AND 600 FEET EAST FROM THE SW CORNER OF SECTION 23

Authorized Place of Use to be Cancelled:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
18 S	41 E	WM	26	NW NE		3.2
18 S	41 E	WM	26	NW SE		0.9
18 S	42 E	WM	30	NE NW		14.4
18 S	42 E	WM	30	NW NW	1	17.4
18 S	42 E	WM	30	SW NW	2	1.5
18 S	42 E	WM	30	NW SW	3	5.0
Total						42.4

40. On August 8, 2016 an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right upon approval of Transfer Application T-11983 was received from William and Cindy Romans. The portion of the right to be cancelled is as follows:

Certificate: 51083 in the name of LLOYD H. HILL, INC (Perfected under Permit G-3247)
Use: IRRIGATION OF 103.7 ACRES
Priority Date: JANUARY 28, 1966
Rate: 0.82 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-EIGHTIETH 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 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.
Source: WELL 1, tributary to DRY CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	41 E	WM	23	SW NW	WELL 1 – 3830 FEET NORTH AND 600 FEET EAST FROM THE SW CORNER OF SECTION 23

Authorized Place of Use to be Cancelled:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
18 S	41 E	WM	25	SW NE		17.1
18 S	41 E	WM	25	SE NE		23.9
18 S	42 E	WM	30	SW NW	2	7.9
18 S	42 E	WM	30	SE NW		0.1
18 S	42 E	WM	30	NE SW		3.5
18 S	42 E	WM	30	NW SW	3	35.0
18 S	42 E	WM	30	SW SW	4	16.2
Total						103.7

Determination and Proposed Action

The change in points of diversion, change in place of use, change in character of use and cancellation and partial cancellation of a water right proposed in Transfer Application T-11983 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the abandoned rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved and the abandoned rights will be cancelled.

If Transfer Application T-11983 is approved, the final order will include the following:

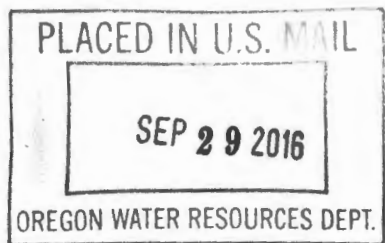
- The change in points of diversion, change in place of use, and change in character of use from supplemental to primary irrigation proposed in Transfer Application T-11983 are approved. The entire water right and portions of a water right that have been abandoned are cancelled.*

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 6954, 51081, 51082, 51105, 51106, 51107, 51108, 51109, and 51934 and any related decree.*
3. *Water Right Certificates 51109 and 51114 are cancelled.*
4. *Water right Certificates 6954, 51081, 51082, 51083, 51105, 51106, 51107, 51108, and 51934 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer and cancellation.*
5. *The quantity of water diverted at the new points 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.*
6. *Water use measurement conditions:*
 - a. *Before water use may begin under this order, the water user shall install a weir, or, with prior approval of the Director, another suitable measuring device, at each point of diversion new and existing.*
 - b. *The water user shall maintain the weirs or measuring devices in good working order.*
 - c. *The water user shall allow the Watermaster access to the weirs or measuring devices; provided however, where the weirs or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
7. *Prior to diverting water, the water user shall install headgates to control and regulate the quantity of water diverted. The type and plans of the headgates must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgates as required by the Department.*
8. *Prior to diverting water, the water user shall install an approved fish screen at the new points of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screens meet the state's criteria, or that ODFW has determined a screen is not necessary.*
9. *The water user shall operate and maintain the fish screen at the new points of diversion consistent with ODFW's operational and maintenance standards. If 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.*
10. *The former place of use of the transferred rights shall no longer receive water under the rights.*
11. *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 changes and full beneficial use of the water.*

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

Dated at Salem, Oregon this 26 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@wrp.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>