



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

October 5, 2016

VIA E-MAIL

DINSDALE FARMS INC
57673 FORT ROCK RD
SILVER LAKE OR 97638

SUBJECT: Water Right Transfer Application T-12375

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12375. 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 Lake County Examiner 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@ wrd.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst

Transfer and Conservation Section

cc: Transfer Application file T-12375
Brian M. Mayer, District 12 Watermaster (*via e-mail*)
Dennis R. Glender, 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-12375, Lake County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN POINTS OF
	)	APPROPRIATION AND A CHANGE IN
	)	PLACES OF USE

Authority

Oregon Revised Statutes (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 Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

DINSDALE FARMS INC
57673 FORT ROCK RD
SILVER LAKE OR 97638

Findings of Fact

1. On May 9, 2016, DINSDALE FARMS INC. filed an application to change the points of appropriation and to change the places of use under Certificates 68269, 83889, 84171, 84172, and 84173. The Department assigned the application number T-12375.
2. Notice of the application for transfer was published on May 17, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 31, 2016, the applicant submitted amended maps.
4. On September 6, 2016, the applicant submitted an amended transfer application.
5. On September 7, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12375 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of October 7, 2016, for the applicants to respond. The applicants 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 portion of the first right to be transferred is as follows:

Certificate: 68269 in the name of SAM DINSDALE (perfected under Permit G-10804)

Use: IRRIGATION OF 131.9 ACRES

Priority Date: MARCH 15, 1984

Rate: 1.62 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 a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Source: WELL 6 within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	28	NW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	28	NE NW	32.4
26 S	15 E	WM	28	NW NW	32.0
26 S	15 E	WM	28	SW NW	34.3
26 S	15 E	WM	28	SE NW	33.2
Total					131.9

7. Transfer Application T-12375 proposes to move the authorized point of appropriation approximately 5.4 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	23	NE NE	POA 6 - 120 FEET SOUTH AND 1278 FEET WEST FROM THE NE CORNER OF SECTION 23

8. Transfer Application T-12375 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	14	SE SW	0.2
27 S	15 E	WM	14	SW SE	29.6
27 S	15 E	WM	14	SE SE	31.9
27 S	15 E	WM	23	NE NE	34.1
27 S	15 E	WM	23	NW NE	34.2
27 S	15 E	WM	23	SW NE	0.7
27 S	15 E	WM	23	SE NE	0.7
27 S	15 E	WM	23	NE NW	0.5
Total					131.9

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

Certificate: 83889 in the name of SAM DINSDALE (perfected under Permit G-9471)

Use: IRRIGATION OF 61.3 ACRES

Priority Date: JUNE 22, 1981

Rate: 0.77 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 2.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	13	NW SW	3967 FEET SOUTH AND 3979 FEET WEST FROM THE NE CORNER OF SECTION 13

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	13	NW SW	34.2
26 S	15 E	WM	13	SW SW	27.1
Total					61.3

10. Transfer Application T-12375 proposes to move the authorized point of appropriations approximately 6.3 miles for POA 6 and 6.8 miles for POA 7, from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	23	NE NE	POA 6 - 120 FEET SOUTH AND 1278 FEET WEST FROM THE NE CORNER OF SECTION 23
27 S	15 E	WM	23	NE SE	POA 7 - 2726 FEET SOUTH AND 1316 FEET WEST FROM THE NE CORNER OF SECTION 23

11. Transfer Application T-12375 also proposes to change the place of use of the right to:

IRRIGATION POA 6					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	14	SW SE	0.1
27 S	15 E	WM	14	SE SE	0.2
27 S	15 E	WM	23	NE NE	1.3
27 S	15 E	WM	23	NW NE	1.2
Total					2.8

IRRIGATION POA 7					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	23	SW NE	15.3
27 S	15 E	WM	23	SE NE	16.3
27 S	15 E	WM	23	NE SE	14.3
27 S	15 E	WM	23	NW SE	12.6
Total					58.5

12. The third right to be transferred is as follows:

Certificate: 84171 in the name of DARREL G. BOWEN (perfected under Permit G-5925)

Use: IRRIGATION OF 26.4 ACRES

Priority Date: SEPTEMBER 19, 1973

Rate: 0.32 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 within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	24	NW SW	1320 FEET NORTH AND 1290 FEET EAST FROM THE SW CORNER OF SECTION 24

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	24	NE SW	7.1
27 S	15 E	WM	24	NW SW	6.6
27 S	15 E	WM	24	SW SW	5.1
27 S	15 E	WM	24	SE SW	7.6
Total					26.4

13. Transfer Application T-12375 proposes to move the authorized point of appropriation approximately 0.5 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	23	NE SE	POA 7 - 2726 FEET SOUTH AND 1316 FEET WEST FROM THE NE CORNER OF SECTION 23

14. Transfer Application T-12375 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	23	SW NE	6.4
27 S	15 E	WM	23	SE NE	6.3
27 S	15 E	WM	23	NE SE	6.8
27 S	15 E	WM	23	NW SE	6.9
Total					26.4

15. The fourth right to be transferred is as follows:

Certificate: 84172 in the name of DARREL G. BOWEN (perfected under Permit G-1301)

Use: IRRIGATION OF 32.0 ACRES

Priority Date: APRIL 8, 1959

Rate: 0.40 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 within the SILVER LAKE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	24	NE NW	19.75 CHAINS SOUTH AND 20.5 CHAINS WEST FROM THE N¼ CORNER OF SECTION 24

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	24	NE NW	8.0
27 S	15 E	WM	24	NW NW	8.0
27 S	15 E	WM	24	SW NW	8.0
27 S	15 E	WM	24	SE NW	8.0
Total					32.0

16. Transfer Application T-12375 proposes to move the authorized point of appropriation approximately 0.56 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	23	NE SE	POA 7 - 2726 FEET SOUTH AND 1316 FEET WEST FROM THE NE CORNER OF SECTION 23

17. Transfer Application T-12375 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	23	SW NE	7.7
27 S	15 E	WM	23	SE NE	7.6
27 S	15 E	WM	23	NE SE	8.3
27 S	15 E	WM	23	NW SE	8.4
Total					32.0

18. The fifth right to be transferred is as follows:

Certificate: 84173 in the name of HUGH WAHL (perfected under Permit G-370)
Use: IRRIGATION OF 14.0 ACRES
Priority Date: SEPTEMBER 7, 1956
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, 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: NO. 1 SHAUB WELL, within the BUCK CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	20	SW SE	1315 FEET NORTH AND 1325 FEET WEST FROM THE SE CORNER OF SECTION 20

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	20	NE SE	7.0
26 S	15 E	WM	20	SE SE	7.0
Total					14.0

19. Transfer Application T-12375 proposes to move the authorized point of appropriation approximately 6.5 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	23	NE SE	POA 7 - 2726 FEET SOUTH AND 1316 FEET WEST FROM THE NE CORNER OF SECTION 23

20. Transfer Application T-12375 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	23	SW NE	3.1
27 S	15 E	WM	23	SE NE	3.0
27 S	15 E	WM	23	NE SE	3.9
27 S	15 E	WM	23	NW SE	4.0
Total					14.0

Transfer Review Criteria (OAR 690-380-4010)

21. 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.
22. A pump, pipeline, and sprinkler system 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-12375.
23. The proposed changes would not result in enlargement of the rights.
24. The proposed changes would not result in injury to other water rights.
25. All other application requirements are met.

Determination and Proposed Action

The change in points of appropriation and change in places of use proposed in Transfer Application T-12375 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-12375 is approved, the final order will include the following:

- 1. The change in points of appropriation and change in places of use proposed in Transfer Application T-12375 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 68269, 83889, 84171, 84172 and 84173, and any related decree.*
- 3. Water right Certificates 84171, 84172, and 84173 are cancelled.*
- 4. Water right Certificates 68269 and 83889 are cancelled. New certificates will be issued describing those portions of these rights not affected by this transfer.*
- 5. The quantity of water diverted at the new points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.*

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 each point of appropriation (new and existing).*
 - b. *The water user shall maintain the meters or measuring devices in good working order.*
 - c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
7. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
8. *The former places of use of the transferred rights shall no longer receive water under the rights.*
9. *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.*
10. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 16 day of October, 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@wrdd.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>