

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

In the Matter of Transfer Application) PRELIMINARY DETERMINATION
T-9978, Umatilla County) PROPOSING APPROVAL OF CHANGE
) IN POINT OF APPROPRIATION

ORS 537.705 and 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of appropriation, point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

SAMUEL AND ROSELLA HUMBERT
53293 TRIANGLE ROAD
MILTON-FREEWATER, OR 97862

Findings of Fact

1. On July 25, 2005, Samuel Humbert filed a transfer application to change the point of appropriation of the authorized well under Certificate 30743. The Department assigned the application number T-9978. On April 30, 2007, the application was amended to add Rosella Humber as a co-applicant.

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

Certificate: 30743 in the name of HAROLD E. AKES (perfected under Permit G-1469)

Use: SUPPLEMENTAL IRRIGATION of 7.42 ACRES

Priority Date: May 25, 1959

Rate: 0.04 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH of ONE CUBIC FOOT PER SECOND per acre, not to exceed 3.0 acre-feet per acre irrigated during the irrigation season of each year, and shall be subject to the provisions of the order recorded in Vol. 10, page 243 - 245, Special Order Record of the State Engineer

Source: A WELL within the EAST BRANCH of MUD CREEK BASIN (Walla Walla River)

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 N	35 E	WM	27	NE NW	743 FEET SOUTH AND 1672 FEET EAST FROM THE NW CORNER OF SECTION 27

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.

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	35 E	WM	27	NE NW	7.42

3. Application T-9978 proposes to move the authorized point of appropriation for the above described lands approximately 750 feet northwest to a well located:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Survey Coordinates
6 N	35 E	WM	22	SE SW	1101	36 FEET NORTH AND 1132 FEET WEST FROM THE S¼ CORNER OF SECTION 22, T 6 N, R 35 E, W.M.

4. Notice of the application for transfer was published on August 2, 2005, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
5. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Application T-9978.
7. The proposed change would not result in enlargement of the right.
8. The proposed change would not result in injury to other water rights.

Determination and Proposed Action


The proposed change in the point of appropriation in application T-9978 appears to be consistent with the requirements of ORS 537.705, ORS 540.505 to 540.580, and OAR 690-380-5000, and will be approved provided that protests are not filed pursuant to OAR 690-380-4030.

If application T-9978 is approved, the final order will include the following:

- 1. The change in point of appropriation proposed in application T-9978 is approved.*
- 2. Water right certificate 30743 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 3. 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 Certificate 30743 and any related decree.*
- 4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*

5. *The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.*
6. *When required by the Department, the water user shall install and maintain an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*
7. *The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. A Claim of Beneficial Use prepared by a Certified Water Rights 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.*
8. *When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 11 day of May 2007.


TSA Phillip C. Ward, Director

Mailing date: ~~MAY 14 2007~~

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

This preliminary determination was prepared by Ken Dowden. If you have any questions about the information in this preliminary determination, you may reach me at (541) 278-5456 or e-mail me at: Ken.D.Dowden@wrdd.state.or.us .