

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

In the Matter of Transfer Application)
T-10009, Umatilla County)
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PRELIMINARY DETERMINATION
PROPOSING APPROVAL TO CHANGE
FROM A SURFACE WATER POINT OF
DIVERSION TO A GROUNDWATER
POINT OF APPROPRIATION

Authority

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

JASON and JANELLE R. HILL
P.O. BOX 1594
PENDLETON, OREGON 97801

Findings of Fact

1. On September 26, 2005, Jason and Janelle R. Hill filed a transfer application to change the POINT OF DIVERSION for lands described under a portion of Water Right Certificate 81586 to a hydraulically connected (pit) well under OAR 690-380-2130. The Department assigned the application number T-10009.
2. On November 16, 2005, an amendment to the application and associated map was submitted. The purpose of the amendment and maps was to more clearly identify the associated supplemental water right also proposed for a change in point of diversion.

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

Certificate: 81586, Confirmed by the Umatilla River Decree, in the name of the Wilson Ditch Company
Use: Irrigation of 24.0 acres
Priority Date: December 15, 1904
Quantity: 0.30 cubic foot per second (cfs)
Source: Umatilla River, tributary to the Columbia River

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 Points of Diversion:

TWP	RNG	MER	Sec	Q-Q	Survey Coordinates
3 N	29 E	WM	22	SE SW	Wilson Ditch - 400 feet North & 330 feet West from the S ¹ / ₄ Corner of Section 22
3 N	29 E	WM	27	NW NE	Wilson Ditch - 200 feet South & 1120 feet East from the S ¹ / ₄ Corner of Section 22
3 N	30 E	WM	31	SW SW	Furnish Canal - 380 feet North & 650 feet East from the SW Corner of Section 31

Authorized Place of Use:

PRIMARY IRRIGATION					
TWP	RNG	MER	SEC	Q - Q	Acres
3 N	29 E	WM	16	SW SE	24.0

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

Permit: 7400, in the name of the U.S. Bureau of Reclamation

Use: Supplemental Irrigation of 24.0 acres

Priority Date: July 1, 1924

Quantity: 0.30 cubic foot per second (cfs)

Rate & Duty: ONE-EIGHTIETH of one cubic foot per second, provided further that the right allowed herein for supplemental irrigation shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed therein.

Source: McKay Reservoir, a tributary of McKay Creek. Water is released into the channels of McKay Creek and Umatilla River and is re-diverted by Furnish Canal

Authorized Points of Diversion:

TWP	RNG	MER	SEC	Q-Q	Lot	SURVEY COORDINATES
2 N	32 E	WM	34	NW SE	--	McKay Dam
3 N	30 E	WM	31	SW SW	4	Furnish Canal - 380 feet North & 650 feet East from the SW Corner of Section 31

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
TWP	RNG	MER	SEC	Q-Q	Acres
3 N	29 E	WM	16	SW SE	24.0

5. Application T-10009 proposes to move the points of diversion for the above described rights for 24.0 acres (TL 2400), approximately 1¹/₄ miles downstream to a shallow, hydraulically connected (pit) well located:

TWP	RNG	MER	SEC	Q-Q	Survey Coordinates
3 N	29 E	W.M.	16	SW SE	145 feet North & 1780 feet West from the SE Corner of Section 16

6. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
7. Water has been used within the last five years according to the terms and conditions of the right and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. A pump and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
9. Department staff hydrogeologist concluded that the proposed (pit) well meets all the requirements of ORS 540.531 and estimated that pumping of the well will result in a greater than 50 percent stream depletion in less than 10 days, thereby affecting the surface water source similarly to the authorized point of diversion, in accordance with OAR 690-380-2130(2)(c) and (11)(b).
10. The proposed change would not result in enlargement of the rights.
11. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The proposed change in POINT OF DIVERSION in application T-10009 appears to be consistent with the requirements of 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 and OAR 690-380-2130.

If approved, the change and subsequent use of water shall be subject to the following conditions:

1. 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 81586, Permit 7400 and any related decree.
2. The well from which water is taken under the right shall be constructed so that the use of the well will affect the surface water source similarly to the use of the original authorized point of diversion.
3. The use of water under this right shall be subject to regulation consistent with other water rights from the surface water source and to all other applicable conditions and restrictions that existed at the original point of diversion(s).
4. Water right certificate 81586 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
5. Permit 7400 is modified.

6. The use of water under this right shall be subject to regulation consistent with other water rights from the surface water source and to all other applicable conditions and restrictions that existed at the original point of diversion.
7. If, within five years after approval of the transfer, the Department finds that the transfer results in substantial or undue interference with an existing ground water right due to use of the pump, that would not have occurred in the absence of the transfer, the new point of appropriation shall be subordinate to the existing right injured by the transfer.
8. The original points of diversion of surface water shall not be retained as an additional or supplemental point of diversion under the transferred portion of the right. However, if within five years after approval of the transfer, the Department receives a transfer application to return to the last authorized surface water point of diversion, the application shall be approved.
9. The quantity of water diverted at the new point of diversion (shallow well) shall not exceed the quantity of water lawfully available at the original points of diversion.
10. The approved change 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.
11. 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.
12. The water shall report total flow figures when requested by the Department. The Watermaster may operate the headgates and monitor accuracy of the measuring devices, as needed.
13. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 31st day of May, 2007.



Phillip C. Ward, Director

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1271

This Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at (541) 278-5456 or Ken.D.Dowden@wr.d.state.or.us .