

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-10134, Baker County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE AND
)	POINT OF APPROPRIATION AND AN
)	ADDITIONAL POINT OF
)	APPROPRIATION

Authority

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

Applicant

JAMES BLATCHFORD
44857 BROWN RD
BAKER CITY OR 97814

Findings of Fact

Background

1. On April 10, 2006, James Blatchford filed an application to change the place of use and point of appropriation and add a point of appropriation under Certificates 42361 and 46115. The Department assigned the application number T-10134.
2. On June 22, 2007, the applicant submitted a revised map and application correcting the number of acres in proposed place of use in Section 16, Township 8 South, Range 39 East, W. M.
3. The first right to be transferred is as follows:
Certificate: 42361 in the name of Jim and David Blatchford (perfected under Permit G-4961)
Use: SUPPLEMENTAL IRRIGATION of 150.0 ACRES
Priority Date: OCTOBER 18, 1971
Rate: 1.34 CUBIC FEET PER SECOND (cfs)
Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year
Source: A GRAVEL PIT within the POWDER RIVER BASIN

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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Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	39 E	WM	17	NW SE	20 FEET SOUTH AND 1680 FEET WEST FROM THE E1/4 CORNER OF SECTION 17

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	39 E	WM	17	NE NE	40.0
8 S	39 E	WM	17	NW NE	31.1
8 S	39 E	WM	17	SW NE	39.6
8 S	39 E	WM	17	SE NE	39.3

4. Transfer Application T-10134 proposes to move the authorized point of appropriation less than ¼ mile in an easterly direction from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	39 E	WM	17	SE NE	65 FEET NORTH AND 350 FEET WEST FROM THE E¼ CORNER OF SECTION 17

5. Transfer Application T-10134 also proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	39 E	WM	17	NE NE	36.2
8 S	39 E	WM	17	NW NE	38.8
8 S	39 E	WM	17	SW NE	37.5
8 S	39 E	WM	17	SE NE	37.5

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

Certificate: 46115 in the name of JIM AND DAVE BLATCHFORD (perfected under Permit G-5780)

Use: SUPPLEMENTAL IRRIGATION of 305.0 ACRES

Priority Date: MAY 1, 1973

Rate: 2.40 CUBIC FEET PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: WELL #1 within the PINE CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	39 E	WM	16	SW NW	WELL #1 - 1200 FEET NORTH AND 50 FEET EAST FROM THE E1/4 CORNER OF SECTION 17

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	39 E	WM	16	NE NW	40.0
8 S	39 E	WM	16	NW NW	39.8
8 S	39 E	WM	16	SW NW	38.4
8 S	39 E	WM	16	SE NW	39.0
8 S	39 E	WM	17	NE NE	40.0
8 S	39 E	WM	17	NW NE	28.9
8 S	39 E	WM	17	SW NE	39.6
8 S	39 E	WM	17	SE NE	39.3

7. Transfer Application T-10134 proposes to add an authorized point of appropriation less than ¼ mile in a westerly direction from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	39 E	WM	17	SE NE	65 FEET NORTH AND 350 FEET WEST FROM THE E¼ CORNER OF SECTION 17

8. Transfer Application T-10134 also proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	39 E	WM	16	NE NW	40.0
8 S	39 E	WM	16	NW NW	37.1
8 S	39 E	WM	16	SW NW	37.5
8 S	39 E	WM	16	SE NW	39.1
8 S	39 E	WM	17	NE NE	37.5
8 S	39 E	WM	17	NW NE	38.8
8 S	39 E	WM	17	SW NE	37.5
8 S	39 E	WM	17	SE NE	37.5

9. Notice of the application for transfer was published on May 2, 2006, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On May 25, 2007, the Department mailed a copy of the *draft* Preliminary Determination proposing to approve Transfer Application T-10134 to the applicant. The cover letter that accompanied the *draft* Preliminary Determination set forth a deadline of June 25, 2007, for the applicant to respond with comments. The applicant did not submit any comments by the deadline.
11. A review of the lot book service prepared by Elkhorn Title Co., dated July 13, 2007, revealed that U. S. Bank Trust Company holds a monetary interest in the property described in Finding of Fact #2.
12. Pursuant to ORS 690-380-4010(5)(b) the Department requested that written notification of the proposed transfer be supplied to the lien holder.

13. On August 13, 2007, the Department received evidence that the lien holder had received written notification of the proposed transfer.

Transfer Review Criteria (OAR 690-380-4010)

14. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
15. 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 Application T-10134.
16. The proposed change would not result in enlargement of the rights.
17. The proposed change would not result in injury to other water rights.

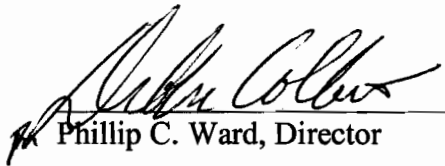
Determination and Proposed Action

The changes in place of use, point of appropriation and an additional point of appropriation proposed in application T-10134 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 application T-10134 is approved, the final order will include the following:

1. *The changes in place of use, point of appropriation and an additional point of appropriation proposed in application T-10134 are approved.*
2. *Water right certificates 42361 and 46115 are cancelled.*
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 Certificates 42361, 46115 and any related decree.*
4. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
5. *The former place of use of the transferred rights shall no longer receive water under the rights.*
6. *The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2012. 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.*
7. *When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 17th day of August, 2007.


Phillip C. Ward, Director

This Preliminary Determination was prepared by Carrie Jones. If you have any questions about the information in this document, you may reach me at e541-523-8224 x 36 or email me at:
Carrie.R.Jones@wrд.state.or.us.

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