

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

In the Matter of Transfer Application)
T-10218, Wasco County)
)
) **PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF 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

Lonnie Wright
5450 Mill Creek Road
The Dalles, OR 97058

Findings of Fact

Background

1. On July 24, 2006, Lonnie Wright, filed an application requesting to add an additional point of appropriation under Certificates 22885 and 22893. The Department assigned the application number T-10218.
2. Lonnie Wright filed the application on behalf of several land owners, all receiving water from the existing well and the new proposed well, located on his property. The other landowners are as follows:

T1N R13E Sec. 18	TL 1000	Bill Tenneson	Scott Tenneson
		5299 Mill Creek Rd.	4800 Mill Creek Rd.
		The Dalles, OR 97058	The Dalles, OR 97058
T1N R12E Sec. 13		Benjamin and Susan Synon	
	TL 1902	5020 Mill Creek Rd.	
		The Dalles, OR 97058	
3. The first right to be transferred is as follows:

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.

Certificate: 22885 in the name of THE PINES (GLADYS L. ROGERS) (perfected under Permit U-480)

Use: IRRIGATION OF 127.9 ACRES

Priority Date: September 29, 1952

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

Rate: 0.99 CUBIC FOOT PER SECOND (CFS)

Source: THE PINES WELL, within the MILL CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Gov't Lot / DLC	Q - Q	Survey Coordinates
1N	13 E	WM	18	DLC 44	NW SW	not specified on Certificate

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

Certificate: 22893 in the name of THE PINES (GLADYS L. ROGERS) (perfected under Permit U-558 / deficiency of rate to Certificate 22885)

Use: SUPPLEMENTAL IRRIGATION OF 127.9 ACRES

Priority Date: June 4, 1953

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

Rate: 0.61 CUBIC FOOT PER SECOND (CFS)

Source: THE PINES WELL, within the MILL CREEK BASIN

Authorized Point of Appropriation: (SAME WELL AS ABOVE)

Twp	Rng	Mer	Sec	Gov't Lot / DLC	Q - Q	Survey Coordinates
1N	13 E	WM	18	DLC 44	NW SW	not specified on Certificate

Authorized Place of Use:

PLACE OF USE - CERTIFICATES 22885 (IR) & 22893 (IS)							
Twp	Rng	Mer	Sec	Gov't Lot / DLC	Q - Q	TL #	Acres
1 N	12 E	WM	13	DLC 44	SE NE	1100	6.0
1 N	12 E	WM	13	DLC 44	NE SE	1100	8.4
1 N	12 E	WM	13	--	SE SE	1902	20.6
1 N	13 E	WM	18	DLC 44	SW NW	1100	26.8
1 N	13 E	WM	18	DLC 44	SE NW	1100	0.3
1 N	13 E	WM	18	DLC 44	NE SW	1100	2.1
1 N	13 E	WM	18	LOT 3	NE SW	1000	21.3
1 N	13 E	WM	18	DLC 44	SW SW	1100	27.6
1 N	13 E	WM	18	LOT 5	SW SW	1100	1.0
1 N	13 E	WM	18	LOT 4	SE SW	1000	13.8
TOTAL:							127.9

- Application T-10218 proposes to add an additional point of appropriation to the above described water rights approximately 400 feet east located:

Proposed Point of Appropriation:

Twp	Rng	Mer	Sec	Gov't Lot / DLC	Q - Q	Survey Coordinates
1 N	13 E	WM	18	DLC 44	NW SW	755 Feet South and 743 Feet West from the NE Corner of DLC 44

- Notice of the application for transfer was published on August 22, 2006, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On September 24, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10218 to the applicants. The draft Preliminary Determination requested written authorization from the affected landowners involved, allowing Mr. Lonnie Wright to file on their behalf. The draft Preliminary Determination also requested a report of land ownership and lien information report from each of the landowners. The cover letter set forth a deadline of October 24, 2007, for the applicants to respond. Larry Toll, CWRE and the applicants' agent, responded, that all the landowners described above agree with the findings and conditions of the draft Preliminary Determination and wish for the Department to proceed with issuance of a Preliminary Determination. Also, on October 24, 2007, the Department received the reports of ownership prepared by a title company which demonstrate that the applicants are authorized to pursue the transfer.
- 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.
- A well, 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-10218.
- The proposed change would not result in enlargement of the rights.
- The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change requesting to add an additional point of appropriation proposed in application T-10218 appears 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-10218 is approved, the final order will include the following:

- The change to include an additional point of appropriation proposed in application T-10218 is approved.*

2. *Water right Certificates 22885 and 22893 are cancelled. New certificates will be issued to describe those portions of the rights 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 Certificates 22885 and 22893 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 additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
6. *Prior to diverting water, the water user shall install an in-line flow meter 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. The water user shall maintain and operate the measuring device as required by the Department.*
7. *The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2009. 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, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 13 day of December 2007.



Phillip C. Ward, Director

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@wrđ.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.