

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-8375, Lake County	)	PROPOSING APPROVAL OF
	)	CHANGES IN PLACE OF USE AND
	)	CHANGES IN POINTS 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

Sam Dinsdale
HC 61 Box 9606
Silver Lake, Oregon 97638

Findings of Fact

Background

1. On December 13, 1999, Sam Dinsdale filed an application to change the place of use only under Certificates 44006 and 27329, and a change in place of use and points of appropriation under Certificates 57125, 55516, 53858, 28682, and 83561. The Department assigned the application number T-8375.
2. The portion of the first right to be transferred is as follows:

Certificate: 44006 in the name of Richard Schaub (perfected under Permit U-512)

Use: Irrigation

Priority Date: July 1, 1952

Rate: 0.05 cubic foot per second (cfs)

Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year

Acres: 4.3

Source: Two wells, in the Buck Creek (Silver Lake) 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
26 S	15 E	WM	32	SW NW	Well No. 1 – 860 feet East and 920 feet North from the W $\frac{1}{4}$ Corner of Section 32
26 S	15 E	WM	32	SW NW	Well No. 2 – 1280 feet North and 300 feet East from the W $\frac{1}{4}$ Corner of Section 32

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	32	NW NW	2.0
26 S	15 E	WM	32	SW NW	2.3

3. Application T-8375 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	32	NE NW	2.4
26 S	15 E	WM	32	SE NW	0.7
26 S	15 E	WM	32	NE SW	0.4
26 S	15 E	WM	32	NW SW	0.8

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

Certificate: 57125 in the name of James Dinsdale (perfected under Permit G-6406)

Use: Irrigation

Priority Date: March 28, 1975

Rate: 0.44 cubic foot per second (cfs)

Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year

Acres: 35.4

Source: Well No. 2 in the Fort Rock Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
26 S	15 E	WM	29	SE NW	Well No. 2 – 1380 feet South and 1650 feet East from the NW Corner of Section 29

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	29	NE NW	8.2
26 S	15 E	WM	29	NW NW	8.2
26 S	15 E	WM	29	SE NW	8.2
26 S	15 E	WM	29	NE SW	6.8
26 S	15 E	WM	29	NW SW	4.0

5. Application T-8375 proposes to move the authorized point of appropriation approximately 1.0 mile south from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
26 S	15 E	WM	31	NW NE	Well No. 2 – 1320 feet South and 2410 feet West from the NE Corner of Section 31

6. Application T-8375 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	31	SE NW	7.25
26 S	15 E	WM	31	NE SW	17.50
26 S	15 E	WM	31	NW SE	10.65

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

Certificate: 55516 in the name of Hugh Wahl (perfected under Permit G-370)

Use: Irrigation

Priority Date: September 7, 1956

Rate: 0.67 cubic foot per second (cfs)

Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year

Acres: 53.8

Source: Shaub Ranch Well No. 1, in the Buck Creek Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
26 S	15 E	WM	20	SW SE	Shaub Ranch Well No. 1 – 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	SE SW	40.0
26 S	15 E	WM	20	NW SE	5.3
26 S	15 E	WM	20	SW SE	8.5

8. Application T-8375 proposes to change the authorized point of appropriation approximately 1.25 miles south from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
26 S	15 E	WM	29	SE NW	Well No.1 – 1380 feet South and 1650 feet East from the NW Corner of Section 29
26 S	15 E	WM	31	NW NE	Well No.2 – 1320 feet South and 2410 feet West from the NE Corner of Section 31

9. Application T-8375 also proposes to change the place of use of the right to:

IRRIGATION					
Well No. 1 (Change in POA only)					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	20	SE SW	40.0

IRRIGATION						
Well No. 2 (Change in POA and POU)						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	15 E	WM	31	SW NW	2	13.8

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

Certificate: 53858 in the name of Loma Vista Farms Inc. (perfected under Permit G-9466)

Use: Irrigation

Priority Date: June 16, 1981

Rate: 0.95 cubic foot per second (cfs)

Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year

Acres: 75.8

Source: A well, in the Fort Rock Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
26 S	15 E	WM	10	SW SW	40 feet North and 50 feet East from the SW Corner of Section 10

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	10	NW SW	39.0
26 S	15 E	WM	10	SW SW	36.8

11. Application T-8375 proposes to change the authorized point of appropriation approximately 4.0 miles south from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
26 S	15 E	WM	31	NW NE	Well No. 2 – 1320 feet South and 2410 feet West from the NE Corner of Section 31

12. Application T-8375 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	15 E	WM	30	SW SW	4	1.85
26 S	15 E	WM	30	SE SW		22.80
26 S	15 E	WM	30	SW SE		15.60
26 S	15 E	WM	30	SE SE		7.30
26 S	15 E	WM	31	NE NW		10.70
26 S	15 E	WM	31	NW NW	1	16.00
26 S	15 E	WM	31	SW NW	2	0.80
26 S	15 E	WM	31	SE NW		0.55
26 S	15 E	WM	31	NW SW	3	0.20

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

Certificate: 28682 in the name of H. L. and Viola Wahl (perfected under Permit U-513)

Use: Irrigation

Priority Date: July 1, 1952

Rate: 0.14 cubic foot per second (cfs)

Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year

Acres: 11.6

Source: A well, in the Buck Creek Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
26 S	15 E	WM	29	SW NW	North 8° 55' East 1150.50 feet from the W¼ Corner of Section 29

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	29	SW NW	8.6
26 S	15 E	WM	29	NW SW	3.0

14. Application T-8375 proposes to change the authorized point of appropriation approximately 1.0 mile south from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
26 S	15 E	WM	31	NW NE	Well No. 2 – 1320 feet South and 2410 feet West from the NE Corner of Section 31

15. Application T-8375 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	15 E	WM	31	NW NW	1	2.4
26 S	15 E	WM	31	SW NW	2	1.6
26 S	15 E	WM	31	SE NW		7.6

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

Certificate: 27329 in the name of Richard Schaub (perfected under Permit G-1136)

Use: Irrigation

Priority Date: October 27, 1958

Rate: 0.14 cubic foot per second (cfs)

Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year

Acres: 11.5

Source: Well No. 2 in the Buck Creek Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
26 S	15 E	WM	32	SW NW	Well No. 2 – 1280 feet North and 300 feet East from the W¼ Corner of Section 32

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	32	SW NW	11.5

17. Application T-8375 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	32	NE NW	7.2
26 S	15 E	WM	32	NW NW	4.3

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

Certificate: 83561 in the name of Sam Dinsdale (perfected under Permit G-9471)

Use: Irrigation

Priority Date: June 22, 1981

Rate: 0.29 cubic foot per second (cfs)

Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 2.0 acre-feet per acre during the irrigation season of each year

Acres: 23.2

Source: A well in the Fort Rock Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
26 S	15 E	WM	13	NW SW	3967 feet South and 3979 feet West from the NE corner, Section 13

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	13	NE SW	8.6
26 S	15 E	WM	13	NW SW	3.0
26 S	15 E	WM	13	SW SW	3.0
26 S	15 E	WM	13	SE SW	8.6

19. Application T-8375 proposes to move the authorized point of appropriation approximately 4.0 miles northeast from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
26 S	15 E	WM	31	NW NE	Well No. 2 – 1320 feet South and 2410 feet West from the NE Corner of Section 31

20. Application T-8375 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	31	NE NE	5.05
26 S	15 E	WM	31	SE NE	7.30
26 S	15 E	WM	31	NE SE	5.40
26 S	15 E	WM	31	NW SE	5.45

21. Notice of the application for transfer was published on December 21, 1999, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
22. Notice of the transfer application was published in the Lake County Examiner on January 20, 27, and February 3, 2007, pursuant to ORS 540.520 and OAR 690-380-4000. No protests were filed in response to the notice.
23. The transfer application did not include a map meeting current mapping standards, or the standards which were in effect at the time the application was filed, being OAR 690-15-060(18). Specifically, the amended changes to the map and old map location of place of use and points of appropriation need to be located on one map, not parts of both the old and amended maps.
24. On November 19, 2007 and December 6, 2007, the Department received revised application maps and transfer application information to remedy the deficiencies. The revisions did not affect the location of the proposed points of diversion as published in the notice described by Finding No. 22.
25. On November 21, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-8375 to the applicant. The draft Preliminary Determination set forth a deadline of December 24, 2007, for the applicant to respond. The applicant 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.

Transfer Review Criteria (OAR 690-380-4010)

26. 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.
27. 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-8375.
28. The proposed changes would not result in enlargement of the rights.
29. The proposed changes would not result in injury to other water rights.

Determination and Proposed Action

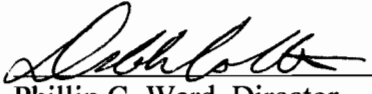
The change in places of use and change in points of appropriation proposed in application T-8375 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If application T-8375 is approved, the final order will include the following:

- 1. The change in places of use and change in points of appropriation proposed in application T-8375 are approved.*
- 2. Water right certificates 44006, 27329, 57125, 55516, 53858, 28682, and 83561 are cancelled. New certificates will be issued describing those portions of the rights described by Certificates 44006, 27329, 57125, 55516, 28262 and 83561 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 44006, 27329, 57125, 55516, 53858, 28682, and 83561 and any related decree.*
- 4. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
- 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. The former place of use of the transferred rights shall no longer receive water under the rights.*
- 7. 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.*

8. *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.*
9. *When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 21st day of February 2008.


Phillip C. Ward, Director

This Preliminary Determination was prepared by Kelly Starnes. If you have questions about the information in this document, you may reach me at 503-986-0886 or Patrick.K.Starnes@wrд.state.or.us.

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