

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-9862, Wheeler County)	PROPOSING APPROVAL OF
)	CHANGES IN PLACE OF USE AND
)	CHARACTER OF USE

Authority

ORS 540.505 to 540.580 establishes 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. OAR Chapter 690, Division 077 provides additional criteria for evaluating transfers to instream water rights.

Applicant

Confederated Tribes of Warm Springs
39067 Highway 218
Fossil, Oregon 97830

Findings of Fact

1. On February 15, 2005, Confederated Tribes of Warm Springs filed a transfer application to change the place of use and character of use under Certificates 25167, 25332, 25333, 25334, 25335, 25365, 25462, and 25523 to instream use. The Department assigned the application number T-9862.

2. The first right to be transferred is as follows:

Certificate: 25167 in the name of FIRST NATIONAL BANK (confirmed by John Day River decree)

Use: IRRIGATION of 14.3 ACRES

Priority Date: MARCH 1881

Rate: 0.358 CUBIC FEET PER SECOND (CFS) to JUNE 1 and 0.179 CFS THEREAFTER

Limit/Duty: ONE-FORTIETH cfs per acre irrigated to June 1 and ONE-EIGHTIETH cfs per acre thereafter; further limited to 1.0 acre-foot (AF) per calendar month to June 1 and 4.0 AF per acre during the season of April 1 to September 30, measured at point of diversion

Source: PINE CREEK AND SPRING AND LONE PINE CREEK, tributary to JOHN DAY 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.
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Authorized Point of Diversion:

The points of diversion for Pine Creek and Lone Pine Creek are not identified on the certificate. The point of diversion for the spring is:

Twp	Rng	Mer	Sec	Q-Q	GLot
8 S	20 E	WM	1	NW NW	4

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
8 S	20 E	WM	1	NE NW	3	2.3
8 S	20 E	WM	1	NW NW	4	1.0
8 S	20 E	WM	2	NE NE	1	7.3
8 S	20 E	WM	2	NW NE	2	3.7

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

Certificate: 25332 in the name of CHARLES HILTON and C.E. BURGESS (confirmed by John Day River decree)

Use: IRRIGATION of 32.5 acres, LIVESTOCK AND DOMESTIC

Priority Date: 1870

Rate: 0.813 CFS to JUNE 1 and 0.406 CFS THEREAFTER

Limit/Duty: ONE-FORTIETH cfs per acre irrigated to June 1 and ONE-EIGHTIETH cfs per acre thereafter; further limited to 1.0 AF per calendar month to June 1 and 4.0 AF per acre during the season of April 1 to September 30, measured at point of diversion

Source: PINE CR, tributary to JOHN DAY RIVER

Authorized Place of Use:

IRRIGATION, LIVESTOCK AND DOMESTIC						
Twp	Rng	Mer	Sec	Q-Q	Acres	
7 S	19 E	WM	33	SE SE	12.5	
7 S	19 E	WM	34	SW SW	10.0	
8 S	19 E	WM	3	NW NW	10.0	

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

Certificate: 25333 in the name of CHARLES HILTON and C.E. BURGESS (confirmed by John Day River decree)

Use: IRRIGATION of 3.6 acres, LIVESTOCK AND DOMESTIC

Priority Date: 1872

Rate: 0.09 CFS to JUNE 1 and 0.045 CFS THEREAFTER

Limit/Duty: ONE-FORTIETH cfs per acre irrigated to June 1 and ONE-EIGHTIETH cfs per acre thereafter; further limited to 1.0 AF per calendar month to June 1 and 4.0 AF per acre during the season of April 1 to September 30, measured at point of diversion

Source: PINE CR, tributary to JOHN DAY RIVER

Authorized Place of Use:

IRRIGATION, LIVESTOCK AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	20 E	WM	3	SW NE	2.0
8 S	20 E	WM	3	SE NW	1.6

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

Certificate: 25334 in the name of CHARLES HILTON and C.E. BURGESS
(confirmed by John Day River decree)

Use: IRRIGATION of 19.2 acres, LIVESTOCK AND DOMESTIC

Priority Date: 1874

Rate: 0.48 CFS to JUNE 1 and 0.24 CFS THEREAFTER

Limit/Duty: ONE-FORTIETH cfs per acre irrigated to June 1 and ONE-EIGHTIETH cfs per acre thereafter; further limited to 1.0 AF per calendar month to June 1 and 4.0 AF per acre during the season of April 1 to September 30, measured at point of diversion

Source: PINE CR, tributary to JOHN DAY RIVER

Authorized Place of Use:

IRRIGATION, LIVESTOCK AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	20 E	WM	31	SE SE	3.0
7 S	20 E	WM	32	SW SW	0.2
8 S	20 E	WM	5	NW NE	6.5
8 S	20 E	WM	5	SW NE	0.5
8 S	20 E	WM	5	NE NW	3.5
8 S	20 E	WM	5	NW NW	3.2
8 S	20 E	WM	6	NE NE	2.3

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

Certificate: 25335 in the name of CHARLES HILTON and C.E. BURGESS
(confirmed by John Day River decree)

Use: IRRIGATION of 7.5 acres, LIVESTOCK AND DOMESTIC

Priority Date: 1874

Rate: 0.188 CFS to JUNE 1 and 0.094 CFS THEREAFTER

Limit/Duty: ONE-FORTIETH cfs per acre irrigated to June 1 and ONE-EIGHTIETH cfs per acre thereafter; further limited to 1.0 AF per calendar month to June 1 and 4.0 AF per acre during the season of April 1 to September 30, measured at point of diversion

Source: PINE CR, tributary to JOHN DAY RIVER

Authorized Place of Use:

IRRIGATION, LIVESTOCK AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	20 E	WM	4	SW NW	4.5
8 S	20 E	WM	4	SE NW	1.7
8 S	20 E	WM	5	SE NE	1.3

7. The sixth right to be transferred is as follows:
Certificate: 25365 in the name of A L HUNTLEY (confirmed by John Day River decree)
Use: IRRIGATION of 73.6 ACRES
Priority Date: 1870
Rate: 1.84 CFS to JUNE 1 and 0.92 CFS THEREAFTER
Limit/Duty: ONE-FORTIETH cfs per acre irrigated to June 1 and ONE-EIGHTIETH cfs per acre thereafter; further limited to 1.0 AF per calendar month to June 1 and 4.0 AF per acre during the season of April 1 to September 30, measured at point of diversion
Source: PINE CREEK, tributary to JOHN DAY RIVER
Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
7 S	19 E	WM	36	NE SW		5.5
7 S	19 E	WM	36	NW SW		0.3
7 S	19 E	WM	36	SW SW		1.5
7 S	19 E	WM	36	SE SW		8.0
7 S	19 E	WM	36	NE SE		7.4
7 S	19 E	WM	36	NW SE		21.0
7 S	19 E	WM	36	SW SE		1.2
7 S	19 E	WM	36	SE SE		7.5
7 S	20 E	WM	31	NW SW	3	0.8
7 S	20 E	WM	31	SW SW	4	20.3
7 S	20 E	WM	31	SE SW		0.1

8. The seventh right to be transferred is as follows:
Certificate: 25462 in the name of ELLEN LEE (WIDOW AND HEIR OF EDWARD LEE ESTATE) (confirmed by John Day River decree)
Use: IRRIGATION of 22.3 ACRES
Priority Date: 1871
Rate: 0.558 CFS to JUNE 1 and 0.279 CFS THEREAFTER
Limit/Duty: ONE-FORTIETH cfs per acre irrigated to June 1 and ONE-EIGHTIETH cfs per acre thereafter; further limited to 1.0 AF per calendar month to June 1 and 4.0 AF per acre during the season of April 1 to September 30, measured at point of diversion
Source: PINE CREEK, tributary to JOHN DAY RIVER
Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	19 E	WM	35	NE SE	0.2
7 S	19 E	WM	35	NW SE	7.0
7 S	19 E	WM	35	SW SE	13.0
7 S	19 E	WM	35	SE SE	2.1

9. The eighth right to be transferred is as follows:

Certificate: 25523 in the name of W J MCGREER (confirmed by John Day River decree)

Use: IRRIGATION of 13.9 ACRES

Priority Date: 1880

Rate: 0.348 CFS to JUNE 1 and 0.174 CFS THEREAFTER

Limit/Duty: ONE-FORTIETH cfs per acre irrigated to June 1 and ONE-EIGHTIETH cfs per acre thereafter; further limited to 1.0 AF per calendar month to June 1 and 4.0 AF per acre during the season of April 1 to September 30, measured at point of diversion

Source: PINE CREEK, tributary to JOHN DAY RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	19 E	WM	4	NE NE	13.9

10. The certificates do not list survey coordinates or ditch names for the authorized points of diversion. However, based on the decree map and information provided by the applicant, the location and ditch name for each point of diversion has been identified as follows:

Certificate	Twp	Rng	Mer	Sec	Q-Q	GLot	Source/Ditch Name	River Mile
25167	8 S	20 E	WM	1	NE NW	4	Pine Creek POD: John F. Jordan Ditch	9.0
25332	7 S	19 E	WM	34	SW SW		Frickey Ditch	0.5
25333	8 S	20 E	WM	3	SE SE		Titus Ditch	7.5
25334	8 S	20 E	WM	5	SE NE			5.5
25335	8 S	20 E	WM	4	SE NW		Titus or Caven Ditch	6.25
25365	7 S	20 E	WM	31	SE SW		Huntley Ditch	4.0
25462	7 S	19 E	WM	35	NE SE			2.5
25523	8 S	19 E	WM	4	NE NE		Clarno Ditch	0.25

11. The water rights are all limited to 1.0 AF per acre per calendar month to June 1 and 4.0 AF per acre during the season of April 1 to September 30, as measured at point of diversion. The total volume of water that may be beneficially used annually under each existing right is as follows:

Certificate	Acres	Acre-feet
25167	14.3	57.2
25332	32.5	130.0
25333	3.6	14.4
25334	19.2	76.8
25335	7.5	30.0
25365	73.6	294.4
25462	22.3	89.2
25523	13.9	55.6
<i>Total</i>	<i>186.9</i>	<i>747.6</i>

12. Application T-9862 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values.
13. Application T-9862 proposes to change the place of use of the rights to create an instream reach from the authorized Points of Diversion, as further described in Finding of Fact #10, to the mouth of Pine Creek.
14. The US Geologic Survey maintains gage number 14046890 on Pine Creek near Clarno at river mile 0.4 that could assist in monitoring the instream flows.
15. There is not an existing instream water right for the same reach as that proposed for the new instream water right.
16. The applicant proposes that the instream water rights created as a result of this transfer be additive to each other within the reach.
17. 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.
18. On June 3, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-9862 to the applicants. The cover letter that accompanied the draft Preliminary Determination set forth a deadline of July 10, 2009, for the applicants to respond and provide additional information requested by the Department. On July 6, 2009, the applicants requested that the Department proceed with the issuance of a Preliminary Determination and provided the information requested by the Department necessary to complete the transfer application.
19. Water has been used within the last five years according to the terms and conditions of the rights as evidenced by the following instream leases:

Certificate	Instream Lease	Activation Date	Expiration Date	Maximum Leased Rate (cfs)	Maximum Certificate Rate (cfs)
25167	190	08/31/2001	09/30/2001	0.236	0.358
	311	07/24/2002	09/30/2002	0.236	
	311	07/02/2003	09/30/2003	0.236	
	589	08/23/2004	09/30/2005	0.236	
25332	190	08/31/2001	09/30/2001	0.53	0.813
	311	07/24/2002	09/30/2002	0.53	
	311	07/02/2003	09/30/2003	0.53	
	589	08/23/2004	09/30/2005	0.53	
25333	190	08/31/2001	09/30/2001	0.059	0.090
	311	07/24/2002	09/30/2002	0.059	
	311	07/02/2003	09/30/2003	0.059	
	589	08/23/2004	09/30/2005	0.059	

Certificate	Instream Lease	Activation Date	Expiration Date	Maximum Leased Rate (cfs)	Maximum Certificate Rate (cfs)
25334	190	08/31/2001	09/30/2001	0.32	0.480
	311	07/24/2002	09/30/2002	0.32	
	311	07/02/2003	09/30/2003	0.32	
	589	08/23/2004	09/30/2005	0.32	
25335	190	08/31/2001	09/30/2001	0.123	0.188
	311	07/24/2002	09/30/2002	0.123	
	311	07/02/2003	09/30/2003	0.123	
	589	08/23/2004	09/30/2005	0.123	
25365	190	08/31/2001	09/30/2001	1.214	1.840
	311	07/24/2002	09/30/2002	1.214	
	311	07/02/2003	09/30/2003	1.214	
	589	08/23/2004	09/30/2005	1.214	
25462	190	08/31/2001	09/30/2001	0.367	0.558
	311	07/24/2002	09/30/2002	0.367	
	311	07/02/2003	09/30/2003	0.367	
	589	08/23/2004	09/30/2005	0.367	
25523	190	08/31/2001	09/30/2001	0.229	0.348
	311	07/24/2002	09/30/2002	0.229	
	311	07/02/2003	09/30/2003	0.229	
	589	08/23/2004	09/30/2005	0.229	

20. Information is available that appears to suggest that portions of the water rights to be transferred under T-9862 may not have been exercised for some period prior to the rights being leased instream. However, the information in the record is not sufficient to initiate cancellation proceedings under ORS 540.631.
21. Currently, there are no diversion structures or distribution systems in place to serve the existing irrigation water rights. However, the water rights were leased instream from 2001-2005 and thereby the water user was ready, willing and able to use the full amount of water under the rights, during that period.
22. The proposed change would not result in enlargement of the right.
23. Because of the configuration of the authorized points of diversion for the rights proposed for transfer, downstream water rights identified in this transfer likely benefited from return flows from upstream water rights involved in this transfer. As a result, transfer of the rights at the total face value could result in injury to other rights calling on Pine Creek, upstream from river mile 9.0.

24. The quantities of water, in cubic feet per second, by originating certificate that can be allocated to the instream water right without injury are as follows:

Certificate	Priority Date	River Mile	Apr	May	June	July	Aug	Sept
25365	1870	4.00	0.35	0.49	0.61	0.75	0.63	0.45
25332	1870	0.50	0.15	0.22	0.27	0.33	0.28	0.20
25462	1871	2.50	0.10	0.15	0.19	0.23	0.19	0.14
25333	1872	7.50	0.02	0.02	0.03	0.04	0.03	0.02
25335	1874	6.25	0.04	0.05	0.06	0.08	0.06	0.05
25334	1874	5.50	0.09	0.13	0.16	0.20	0.16	0.12
25523	1880	0.40	0.07	0.09	0.12	0.14	0.12	0.09
25167	Mar 1881	9.00	0.07	0.10	0.12	0.15	0.12	0.09
Totals			0.89	1.25	1.56	1.92	1.59	1.16

25. The Department, with the assistance of the applicant, conducted a gain/loss study in which streamflows were monitored at several locations during the summer of 2008. The study included placement of staff gages at seven locations between rivermile 9.0 and rivermile 0.4 on Pine Creek. Flow levels at the gages were recorded every two weeks throughout the 2008 irrigation season. Although some areas of temporary channel losses (hyporheic flow) were identified, the flow measurements indicated an average gain of 14.3 percent per mile through the 8.6-mile reach for the measurement period.
26. The 2008 measurements indicate reductions in the quantity of water protected instream are not necessary to account for the temporary channel losses (hyporheic flow) because the regulation of the instream water right will be based on flows at river mile 0.4. However, further data collection over a number of years with varying conditions would yield a more accurate assessment of any channel losses or gains. A condition allowing the Department to adjust the quantities of water protected instream based on more complete data would ensure that the transfer will not result in injury, while providing protection for streamflows under the instream water right at the highest level appropriate.
27. Evaporative losses from the reach of Pine Creek between river mile 9 and the mouth are insignificant compared to the measurement error at the monitoring location. Reductions in the quantities of water to be allocated under the instream water right to account for evaporative losses are not necessary to avoid injury.
28. On July 6, 2009, the applicant agreed to modify the application to allocate the quantities of water listed in Finding of Fact 24, to establish that regulation for the instream water right will be based on streamflows at river mile 0.4 which is the location of the USGS gage, and the inclusion of a condition in the transfer allowing the Department to adjust the quantities of water protected instream if subsequent data collection demonstrates that there are significant channel losses.

29. The amount of the proposed instream flow and the timing of the proposed instream flow are allowable within the limits and use of the original water rights.
30. Associated with Instream Lease L-190, referenced in Finding of Fact #19, the Oregon Department of Fish and Wildlife indicated on July 18, 2001, that the conversion of water rights on Pine Creek to instream use will provide for the conservation, maintenance and enhancement of aquatic and fish life and fish habitat in Pine Creek. The applicant is also a manager of the fishery resource and believes that there is benefit in converting the rights to instream use.
31. Natural streamflows are the source for meeting the proposed instream water rights. The proposed amounts, as described in Finding of Fact #24, are below the estimated average natural flow values on Pine Creek, which are as listed below.

Month	Estimated Average Natural Flow (EANF) (cfs)
April	4.09
May	4.79
June	2.94
July	2.32
August	2.20
September	2.11

32. The protection of flows within the proposed reaches and as modified, as described in Finding of Fact #24, is appropriate, considering:
 - a) The instream water right begins at each of the recorded points of diversion;
 - b) The location of confluences with other streams downstream of the points of diversion;
 - c) As described in Finding of Fact #25, there are known areas of temporary natural channel loss (hyporheic flow) of streamflow to the river bed downstream from the points of diversion; and
 - d) The quantities of water to which the rights proposed for transfer are entitled are based on the evapotranspiration rates for irrigation use as tabulated in the "Oregon Crop Water Use and Irrigation Requirements" published in 1992 by Oregon State University.
33. There is no existing instream water right in the proposed stream reach. The total monthly quantities of water to be protected under the proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

Determination and Proposed Action

The proposed changes in place of use and character of use in application T-9862 appear to be consistent with the requirements of ORS 540.505 to 540.580, ORS 537.348, OAR 690-380-5000, and OAR 690-077-0075 and will be approved provided that protests are not filed pursuant to OAR 690-380-4030.

If application T-9862 is approved, the final order will include the following:

1. *The changes in character of use and place of use to instream use proposed in application T-9862 are approved.*
2. *The former place of use of the transferred water shall no longer receive water as part of these rights.*
3. *Certificates 25167, 25332, 25333, 25334, 25335, 25365, 25462, and 25523 shall be cancelled and a new instream water right certificate shall be issued. The certificate shall provide for the protection of streamflows from the point of diversion authorized under Certificate 25167 to the mouth of Pine Creek. Instream flows within the identified reach shall be regulated based on flows at river mile 0.4.*
4. *The quantities of water, in cubic feet per second, to which the instream water right shall be entitled, prior to any reductions for channel losses, are:*


<i>Priority Dates</i>	<i>Apr</i>	<i>May</i>	<i>June</i>	<i>July</i>	<i>Aug</i>	<i>Sept</i>
<i>1870</i>	<i>0.50</i>	<i>0.71</i>	<i>0.88</i>	<i>1.08</i>	<i>0.91</i>	<i>0.65</i>
<i>1871</i>	<i>0.10</i>	<i>0.15</i>	<i>0.19</i>	<i>0.23</i>	<i>0.19</i>	<i>0.14</i>
<i>1872</i>	<i>0.02</i>	<i>0.02</i>	<i>0.03</i>	<i>0.04</i>	<i>0.03</i>	<i>0.02</i>
<i>1874</i>	<i>0.13</i>	<i>0.18</i>	<i>0.22</i>	<i>0.28</i>	<i>0.22</i>	<i>0.17</i>
<i>1880</i>	<i>0.07</i>	<i>0.09</i>	<i>0.12</i>	<i>0.14</i>	<i>0.12</i>	<i>0.09</i>
<i>March 1881</i>	<i>0.07</i>	<i>0.10</i>	<i>0.12</i>	<i>0.15</i>	<i>0.12</i>	<i>0.09</i>
<i>Totals</i>	<i>0.89</i>	<i>1.25</i>	<i>1.56</i>	<i>1.92</i>	<i>1.59</i>	<i>1.16</i>

5. *The amount of water to which the instream right is entitled shall not exceed the quantity of water legally available at the original points of diversion. Stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to be protected instream under this right. The Department may apply a loss factor in calculating the quantity of water to be protected on finding that available data demonstrate that channel losses are occurring and a reduction in the quantities of water protected instream is necessary to avoid injury to other water rights. Pending such a finding, the quantities of water to be protected instream are as listed in Condition #4.*
6. *The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and be in addition to instream*

water rights established pursuant to ORS 537.348 or 537.470, unless otherwise specified by a subsequent order establishing a new instream water right.

7. *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 25167, 25332, 25333, 25334, 25335, 25365, 25462, and 25523 and any related decree.*

Dated at Salem, Oregon this 17th day of July, 2009.


Phillip C. Ward, Director *rw*

This Preliminary Determination was prepared by Laura Wilke. If you have questions about the information in this document, you may reach me at 503-986-0884 or Laura.K.Wilke@wrdd.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.

**Notice of Preliminary Determination for
Water Right Transfer T-9862**

T-9862 filed by Confederated Tribes of Warm Springs, 39067 Highway 218, Fossil, OR 97830, proposes a change in place of use and a change in character of use under Certificates 25167, 25332, 25333, 25334, 25335, 25365, 25462, and 25523. Certificate 25167 allows the use of up to 0.358 Cubic Foot per Second (CFS) (priority date March, 1881) from Pine Creek, a Spring, and Lone Pine Creek for Irrigation in Sec. 1 and 2, T 8 S, R 20 E, WM. Certificate 25332 allows the use of up to 0.813 CFS (priority date 1870) from Pine Creek for Irrigation in Sec. 33 and 34, T 7 S, R 19 E, WM, and in Sec. 3, T 8 S, R 19 E, WM. Certificate 25333 allows the use of up to 0.09 CFS (priority date 1872) from Pine Creek for Irrigation in Sec. 3, T 8 S, R 20 E, WM. Certificate 25334 allows the use of up to 0.48 CFS (priority date 1874) from Pine Creek for Irrigation in Sec. 31 and 32, T 7 S, R 20 E, WM, and in Sec. 5 and 6, T 8 S, R20 E, WM. Certificate 25335 allows the use of up to 0.188 CFS (priority date 1874) from Pine Creek for Irrigation in Sec. 4 and 5, T 8 S, R 20 E, WM. Certificate 25365 allows the use of up to 1.84 CFS (priority date 1870) from Pine Creek for Irrigation in Sec. 36, T 7 S, R 19 E, WM, and in Sec. 31, T 7 S, R 20 E, WM. Certificate 25462 allows the use of up to 0.558 CFS (priority date 1871) from Pine Creek for Irrigation in Sec. 35, T 7 S, R 19 E, WM. Certificate 25523 allows the use of up to 0.348 CFS (priority date 1880) from Pine Creek for Irrigation in Sec. 4, T 8 S, R 19 E, WM. The applicant proposes to change the place of use and character of use to instream use in Pine Creek (from point of diversion for Certificate 25167 (approx. river mile 9.0) to the mouth of Pine Creek), at a maximum rate of 1.92 CFS. The application was amended to modify the quantities of water that may be transferred to instream use under each certificate. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540, OAR 690-380-5000, and OAR 690-077-0075.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 986-0883. The last date of newspaper publication is [DATE OF LAST PUBLICATION]. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.