

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

In the Matter of Transfer Application)
T-9916, Clackamas County)
)
) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF A
) CHANGE IN 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

RON HOSTETLER
1967 NE 19TH AVENUE
CANBY OR 97013

Findings of Fact

Background

1. On April 26, 2005, Ron Hostetler filed an application to change the point of appropriation under Permit G-12712. The Department assigned the application number T-9916.
2. On January 25, 2008, the Department issued a water right certificate (Certificate 83665) confirming the use of water perfected under Permit G-12712.
3. The right to be transferred is as follows:
 - Certificate:** 83665 in the name of RON HOSTETLER (perfected under Permit G-12712)
 - Use:** IRRIGATION of 20.4 ACRES
 - Priority Date:** FEBRUARY 22, 1993
 - Rate:** 0.255 CUBIC FOOT PER SECOND (CFS)
 - Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 ACRE-FEET per acre for each acre irrigated during the irrigation season of each year

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.

Period of Use: MARCH 1 through OCTOBER 31

Source: A WELL within the PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 S	1 E	WM	6	NW SE	3068 FEET SOUTH AND 2365 FEET WEST FROM THE NE CORNER OF SECTION 6

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 E	WM	6	NW SE	20.4

4. Transfer Application T-9916 proposes to move the authorized point of appropriation approximately 46 feet southeast from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 S	1 E	WM	6	NW SE	3114 FEET SOUTH AND 2319 FEET WEST FROM THE NE CORNER OF SECTION 6

5. Notice of the application for transfer was published on May 17, 2005, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. On June 17, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-9916 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 17, 2009, 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, including a notarized affidavit consenting to the proposed transfer from the co-owner (Kathy Hostetler) of the property to which water right Certificate 83665 is appurtenant.

Transfer Review Criteria (OAR 690-380-4010)

7. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-9916.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

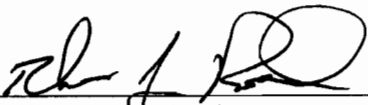
Determination and Proposed Action

The change in point of appropriation proposed in Transfer Application T-9916 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 Transfer Application T-9916 is approved, the final order will include the following:

- 1. The change in point of appropriation proposed in Transfer Application T-9916 is approved.*
- 2. 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 83665 and any related decree.*
- 3. Water right certificate 83665 is cancelled.*
- 4. The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
- 5. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.*
- 6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 7. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. 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 change and full beneficial use of the water.*
- 8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 27 day of August 2009.


For Phillip C. Ward, Director

This Preliminary Determination was prepared by Vern Church. If you have questions about the information in this document, you may reach me at 541-883-4182 or Vernon.L.Church@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.