

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	6 W	WM	5	SW SW	3.0

3. Certificate 47291 does not describe the location of the point of diversion; however, information is available from the Certified Water Right Examiner indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
35 S	6 W	WM	6	NE SE	830 FEET SOUTH AND 80 FEET WEST FROM THE NE CORNER OF THE NWSE OF SECTION 6

4. Transfer Application T-11054 proposes to change the character of use of 0.75 acres of irrigation to domestic use as follows:

DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Type of Change
35 S	6 W	WM	5	SW SW	POD/POU/USE

5. Transfer Application T-11054 proposes to move the authorized point of diversion for the 3.0 acres described in Finding of Fact No. 2, southeast approximately 1320 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
35 S	6 W	WM	5	SW SW	890 FEET NORTH AND 75 FEET EAST FROM THE SW CORNER OF SECTION 5

6. Transfer Application T-11054 proposes the following changes to the 2.25 acres of the 3.0 acres as follows:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of Change
35 S	6 W	WM	5	SW SW	0.05	POD/POU
35 S	6 W	WM	5	SW SW	2.20	POD

7. Because the change in character of use proposes a year-round use for domestic, the amount of water equivalent to irrigation of 0.75 acre (0.0137 cubic foot per second (cfs)) with a season of March 1 to October 31 of each year must be prorated and reduced to 0.006 cfs for 12 months of use each year (0.75 acre x 0.0137 cfs ÷ 365 days x 214 days in irrigation season = 0.006 cfs) to avoid enlargement.
8. Certificate 47291 does not list a duty of water; however, the limit of the water right is the maximum quantity that could be beneficially used without waste. Based on the crop consumptive use estimates that are published in *Oregon Crop Water Use and Irrigation Requirements* (Cuenca 1992), the most consumptive crop use for the area of this water right is 3.35 acre feet per year. Utilizing an evaporative loss quantification of 10%, the maximum duty of water to be transferred would be 3.7 acre feet (af) per acre. Therefore, to prevent enlargement of this right, the maximum diverted annual volume of water for domestic use under this right should be limited to 2.78 acre-feet per year (3.7 af x 0.75 acre).

9. On June 8, 2010, the applicant agreed to limit domestic use to 0.006 cfs and 2.78 acre feet per year.
10. This application is being processed concurrently with T-11053, which also propose changes to Certificate 47291.
11. Notice of the application for transfer was published on April 13, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
12. On May 14, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11054 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 30, 2010, 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.
13. Because of current economic circumstances, on June 11, 2010, the applicant requested additional time until October 1, 2012, to complete the changes and apply the water to full beneficial use.
14. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

Transfer Review Criteria [OAR 690-380-4010(2)]

15. 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.
16. 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-11054.
17. The proposed changes would not result in enlargement of the right.
18. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

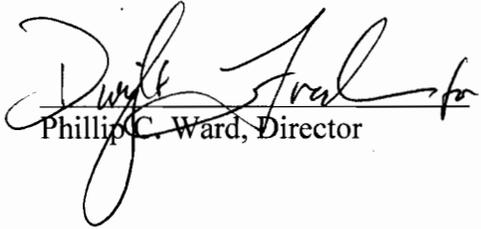
The change in point of diversion, change in place of use, and change in character of use proposed in Transfer Application T-11054 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-11054 is approved, the final order will include the following:

- 1. The change in point of diversion, change in place of use, and change in character of use proposed in Transfer Application T-11054 are 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 47291 and any related decree.*
- 3. Water right certificate 47291 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer and Transfer Application T-11053.*
- 4. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.*
- 5. The year-round domestic use of water under this right is limited to a rate of 0.006 cfs and an annual volume limitation of 2.78 acre-feet.*
- 6. The use of water for irrigation is limited to 0.031 cfs for irrigation of 2.25 acres during the irrigation season.*
- 7. Water use measurement conditions:*
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion.*
 - b. The water user shall maintain the meter or measuring device in good working order.*
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
- 8. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*
- 9. The former place of use of the transferred right shall no longer receive water under the right.*

10. *The approved change 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 Right 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.*
11. *When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 14 day of June 2010.


Phillip C. Ward, Director

This Preliminary Determination was prepared by Teri Hranac. If you have questions about the information in this document, you may reach me at 503-986-0881 or Teri.K.Hranac@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.