



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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March 28, 2012

ROSEDALE FRUIT FARM, LLC.
1250 STATE ROAD
MOSIER, OR 97040

SUBJECT: Water Right Transfer Application T-11091

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11091. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication simultaneously with issuance of the Preliminary Determination. The notice initiates a 30-day period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at (503) 986-0890 or Dorothy.I.Pedersen@wrdd.state.or.us if I may be of assistance.

Sincerely,

Dorothy I. Pedersen
Transfer Program Advisor

cc: Robert L. Wood, District 3 Watermaster
Larry Toll, CWRE → address: Tenneson Engineering Corp., 3313 W. Second St., Suite 100, The Dalles, OR 97058

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

In the Matter of Transfer Application) PRELIMINARY DETERMINATION
T-11091, Wasco County) 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

ROSEDALE FRUIT FARM, LLC
1250 STATE ROAD
MOSIER, OR 97040

Findings of Fact

Background

1. On JUNE 17, 2010, W. B. REEVES, MANAGER OF ROSEDALE FRUIT FARM, LLC, filed an application to change the point of appropriation under Certificate 84038. The Department assigned the application number T-11091.
2. The right to be transferred is as follows:
Certificate: 84038 in the name of W. B. REEVES (perfected under Permit G-10911)
Use: IRRIGATION of 74.4 ACRES
Priority Date: MAY 10, 1988 for 0.23 cfs, and JUNE 13, 1989 for 0.30 cfs
Rate: 0.53 CUBIC FOOT PER SECOND (cfs)
Limit/Duty: 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 3.0 ACRE-FEET per acre for each acre irrigated during the irrigation season
Source: A WELL within the ROWENA CREEK basin. Under the terms of this right, NO WATER SHALL BE APPROPRIATED FROM THE POMONA AQUIFER.

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	12 E	WM	7	NE NE	1280 FEET SOUTH AND 190 FEET WEST FROM THE NE CORNER OF SECTION 7

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.

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
2 N	12 E	WM	6	SW SE	0.2
2 N	12 E	WM	6	SE SE	7.2
2 N	12 E	WM	7	NE NE	34.5
2 N	12 E	WM	7	NW NE	8.1
2 N	12 E	WM	8	NW NW	14.4
2 N	12 E	WM	8	SW NW	10.0

- Transfer Application T-11091 proposes to change the point of appropriation west approximately 850 feet to a new well located:

Proposed Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	12 E	WM	7	NE NE	1300 FEET SOUTH AND 1065 FEET WEST FROM THE NE CORNER OF SECTION 7

- Notice of the application for transfer was published on June 29, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On February 10, 2012, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11091 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 9, 2012, for the applicant to respond. On March 12, 2012, the applicant submitted a letter requesting the Department to 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)

- Water has been used within the last five years five years prior to the submittal of Transfer Application T-11091 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.
- A well, 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-11091.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights. Pursuant to OAR 690-380-2110(2), based on the information provided, the proposed point of appropriation (WASC 51793) develops the same (source) aquifer as that of the original authorized well (WASC 1905/2091 *deepening*/WASC 51711 *deepening*), and complies with the Department's administrative rule under OAR 690-380-4010 (2)(e). Both wells are within the Priest Rapids Critical Groundwater Area (CGWA).

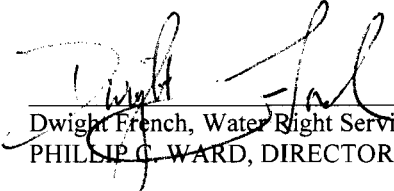
Determination and Proposed Action

The change in point of appropriation proposed in Transfer Application T-11091 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-11091 is approved, the final order will include the following:

1. *The change in point of appropriation proposed in application T-11091 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 84038.*
3. *Water right certificate 84038 is cancelled.*
4. *Water shall only be acquired from the Priest Rapids Aquifer.*
5. *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.*
6. *Water 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 the point of diversion.*
 - b) *The water user shall maintain the meter or measuring devices in good working order.*
 - c) *The water user shall allow the Watermaster access to the meter or measuring devices; provided however, where the meter or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2013**. 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.*
8. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 26 day of March, 2012.


Dwight French, Water Right Services Administrator, for
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@wr.d.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.