

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

In the Matter of Transfer Application)
T-10630, Grant County)
)
) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF A
) CHANGE IN POINT OF DIVERSION
) AND PLACE 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.

Applicant

RICK A. HUFSTADER & CYNTHIA
STRICKLAND
P.O. BOX NKi
KETCHIKAN, ALASKA 99950

Agent

KYLE SULLIVAN
GRANT SWCD
721 SOUTH CANYON BLVD.
JOHN DAY, OR 97845

Findings of Fact

Background

1. On May 12, 2008, Rick Hufstader and Cynthia Strickland filed an application to change the points of diversion and to change the place of use under existing water right Certificates 39356 and 39357. The Department assigned the application number T-10630.
2. The portion of the first right to be transferred is as follows:
Certificate: 39356 in the name of KATHERINE GEISLER (perfected under Permit 18828)
Use: IRRIGATION OF 7.0 ACRES
Rate: 0.175 cubic foot per second
Priority Date: June 28, 1949
Limit/Duty: ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated an shall be further limited to a diversion not to exceed FIVE ACRE-FEET per acre for each acre irrigated during the irrigation season from April 1 to September 30 of each year
Source: JOHN DAY RIVER, a tributary of the COLUMBIA 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.

Authorized Point of Diversion: ,

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
13 S	29 E	WM	27	NW NE	50 feet south and 3380 feet east from the NW Corner of Section 27

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
13 S	29 E	WM	18	SW SE	5.0
13 S	29 E	WM	19	NW NE	3.3

7. Certificate 39357 describes the location of the point of diversion in relation to a survey corner in Section 27, of Township 13 South, Range 29 East. The POD is described as within the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ within Section 27. However, information is available from the current map prepared by the applicant's Certified Water Rights Examiner based on a recent field visit and subsequent survey indicating that the point of diversion is northeast approximately 150 feet from the original POD, and is located as follows:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
13 S	29 E	WM	22	SW SE	80 feet north and 3590 feet east from the SW Corner of Section 22

8. Transfer Application T-10630 proposes to change the place of use of the above described right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
13 S	29 E	WM	18	NW SE	0.1
13 S	29 E	WM	18	SW SE	4.7
13 S	29 E	WM	18	SE SE	3.5

9. Transfer Application T-10630 also proposes to change the point of diversion of the above described right downstream approximately 4 miles to:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
13 S	29 E	WM	18	SW SE	580 feet north and 1990 feet west from the SE Corner of Section 18


10. Notice of Transfer Application T-10630 was published on May 27, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

11. 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.

12. On April 30, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10630 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 1, 2010, for the applicant to respond.

6. *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.*
7. *When required by the Department, the water user shall install, maintain and operate a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*
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 rights shall no longer receive water under the rights.*
10. *The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. 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.*
11. *When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 30th day of July 2010.



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@wrdd.state.or.us.

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