

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

In the Matter of Transfer Application)
T-9792, Harney County)
)
) **PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF AN
ADDITIONAL 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

MARK AND JILL TOEVS
P.O. BOX 511
PASO ROBLES, CA 93447

Findings of Fact

Background

1. On September 22, 2004, Thomas H. and Katherine Wendel, filed an application to add a point of appropriation under Certificate 83047. The Department assigned the application number T-9792.
2. On March 27, 2007 the Department approved a request filed by Thomas H. and Katherine Wendel assigning all of their interest in Transfer 9792 to Mark and Jill Toevs.
3. On March 8, 2007, the applicant submitted a revised application, identifying the correct acres listed on the certificate for transfer.

4. The right to be transferred is as follows:

Certificate: 83047 in the name of THOMAS H AND KATHERINE WENDEL (perfected under Permit G-11060)

Use: SUPPLEMENTAL IRRIGATION of 173.9 ACRES

Priority Date: DECEMBER 8, 1988

Rate: 2.17 CUBIC FEET PER SECOND

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.

Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: A WELL in the SAGE HEN CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
24 S	29 E	WM	1	NW NW	4	1010 FEET SOUTH AND 1266 FEET EAST FROM NW CORNER, SECTION 1

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
24 S	29 E	WM	1	SW NE		5.4
24 S	29 E	WM	1	NE NW	3	3.1
24 S	29 E	WM	1	NW NW	4	5.8
24 S	29 E	WM	1	SW NW		11.0
24 S	29 E	WM	1	SE NW		33.4
24 S	29 E	WM	1	NE SW		28.0
24 S	29 E	WM	1	NW SW		2.0
24 S	29 E	WM	1	SE SW		2.1
24 S	29 E	WM	1	NE SE		4.2
24 S	29 E	WM	1	NW SE		36.2
24 S	29 E	WM	1	SW SE		24.4
24 S	29 E	WM	1	SE SE		18.3

5. Application T-9792 proposes to add a point of appropriation approximately 3/4 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
24 S	29 E	WM	1	SW SE	608 FEET NORTH AND 2256 FEET WEST FROM THE SE CORNER, SECTION 1

6. Notice of the application for transfer was published on October 12, 2004, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On April 4, 2007, the applicants requested to have the completion date extended until October 1, 2011

Transfer Review Criteria (OAR 690-380-4010)

8. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
9. 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 Application T-9792.
10. The proposed change would not result in enlargement of the right.

11. The proposed change would not result in injury to other water right.

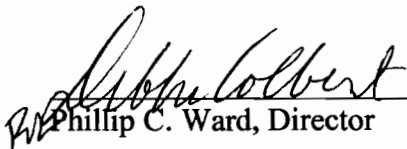
Determination and Proposed Action

The additional point of appropriation proposed in application T-9792 appear 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 application T-9792 is approved, the final order will include the following:

1. *The additional point of appropriation proposed in application T-9792 is approved.*
2. *Water right certificate 83047 is cancelled.*
3. *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 83047 and any related decree.*
4. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
5. *The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
6. *When required by the Department, the water user shall install and maintain a weir, meter, or other suitable measuring device and keep a complete record of the amount of ground water withdrawn.*
7. *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.*
8. *When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 24th day of May 2007.


Phillip C. Ward, Director

This preliminary determination was prepared by Carrie Jones. If you have any questions about the information in this preliminary determination, you may reach me at (541) 523-8224 ext 36 or e-mail me at: carrie.r.jones@wrд.state.or.us .

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