



5. 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.
6. On December 8, 2014, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11739 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on December 16, 2014, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. The right to be transferred is as follows:

**Certificate:** 83829 in the name of KENNETH CUNNINGHAM (perfected under Permit G-11163)

**Use:** IRRIGATION of 30.0 ACRES

**Priority Date:** OCTOBER 29, 1990

**Rate:** 0.37 CUBIC FOOT PER SECOND

**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.

**Source:** A WELL in the NORTH SANTIAM BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
10 S	2 W	WM	8	SE SE	62	1125 FEET NORTH AND 260 FEET WEST FROM THE SE CORNER OF SECTION 8

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
10 S	2 W	WM	8	SE SE	62	9.1
10 S	2 W	WM	9	SW SW	62	11.6
10 S	2 W	WM	16	NW NW	62	3.1
10 S	2 W	WM	17	NE NE	62	6.2

8. Transfer Application T-11739 proposes to move the authorized point of appropriation approximately 130 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
10 S	2 W	WM	8	SE SE	62	NEW WELL - 995 FEET NORTH AND 260 FEET WEST FROM THE SE CORNER OF SECTION 8

9. Certificate 83829 describes the lands appurtenant to the right as being in Marion County, Oregon. Based on the State of Oregon map, the lands appurtenant to the right are actually located in Linn County, Oregon.

***Transfer Review Criteria (OAR 690-380-4010)***

10. 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.
11. 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-11739.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.
14. All other application requirements are met.

**Conclusion of Law**

The change in point of appropriation proposed in Transfer Application T-11739 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

1. The change in point of appropriation proposed in Transfer Application T-11739 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 83829 and any related decree.
3. Water Right Certificate 83829 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. 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 appropriation at each new point of appropriation.
  - 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.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.

7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2016**. 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 20 day of January, 2015.

  
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Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

*Mailing Date:*           **JAN 28 2015**