

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-8612, Washington 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**

CAMPBELL ROAD NURSERY, LLC  
12401 SW CAMPBELL RD.  
HILLSBORO, OR 97123

**Findings of Fact**

**Background**

1. On October 4, 2000, D & S Nursery, LLC, filed an application to change the point of appropriation under Permit G-11118. The Department assigned the application number T-8612.
2. On April 24, 2009, the Department issued Certificate 85466, confirming the water use perfected under Permit G-11118.
3. On June 24, 2009, the applicant then submitted revisions to the application, changing it from a Permit Amendment application to a Water Right Transfer application, including a map stamped by a Certified Water Right Examiner.
4. On May 23, 2011, T-8612 was assigned from D & S Nursery, LLC to Campbell Road Nursery, LLC.
5. The portion of the right to be transferred is as follows:

**Certificate:** 85466 in the name of RICHARD EGGER, D & S NURSERY, PAUL DENFELD, FREDRICK & HOLLY PFISTER AND JOHN & DONNA PFISTER (perfected under Permit G-11118)

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.

**Use:** IRRIGATION of 38 ACRES  
**Priority Date:** JANUARY 10, 1989  
**Rate:** 0.23 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:** WELL 2 within the TUALATIN RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	3 W	WM	1	NW SE	WELL 2--2 FEET SOUTH AND 1365 FEET WEST FROM THE E1/4 CORNER OF SECTION 1

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	3 W	WM	1	NE NE	29.5
2 S	3 W	WM	1	SE NE	8.5

6. Transfer Application T-8612 proposes to move the authorized point of appropriation approximately 0.4 mile northeast from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	3 W	WM	1	NE NE	1032 FEET SOUTH AND 214 FEET WEST FROM THE NE CORNER OF SECTION 1

7. Notice of the application for permit amendment was published on October 17, 2000, pursuant to OAR 690-380-4000. On May 31, 2011, T-8612 was re-noticed as a permanent transfer. No comments were filed in response to the notices.
8. On July 7, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-8612 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 7, 2011, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.

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

9. Water has been used within the last five years prior to the submittal of Transfer Application T-8612 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.

10. A pump, pipeline, drip lines 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-8612.
11. Provided the new well is continuously cased and sealed a minimum of five feet into the hard basalt aquifer, it would access the same source of water as the authorized well.
12. The proposed change would not result in enlargement of the right, provided that the new well accesses the same water bearing zone as the authorized well.
13. The proposed change would not result in injury to other water rights, provided the new well accesses the same water bearing zone as the authorized well.

### **Determination and Proposed Action**

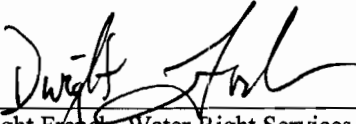
The change in point of appropriation proposed in Transfer Application T-8612, if conditioned as below, appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

*If Transfer Application T-8612 is approved, the final order will include the following:*

1. *The change in point of appropriation proposed in application T-8612 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 (including well construction, measurements of static water levels, etc.) contained in Certificate 85466 and any related decree.*
3. *Water right certificate 85466 is cancelled. A new certificate will be issued describing the portion of the right not affected by this transfer.*
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 shall be acquired from the same aquifer (water source) as the original point of appropriation by casing and sealing the well a minimum of five feet into hard basalt.*
6. *The former place of use of the transferred right shall no longer receive water under the right.*
7. *The Director may require the water user to install a totalizing flow meter or other suitable measuring devices at each point of appropriation. If the Director notifies the water user to install totalizing flow meters or other measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices.*

8. *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.*
9. *When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 17 day of August, 2011.



---

Dwight French, Water Right Services Administrator, for  
PHILLIP C WARD, DIRECTOR

This Preliminary Determination was prepared by Dorothy Pedersen. If you have questions about the information in this document, you may reach me at 503-986-0890 or [Dorothy.I.Pedersen@wrp.state.or.us](mailto:Dorothy.I.Pedersen@wrp.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.