



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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March 27, 2012

VIA E-MAIL

Applicant

CITY OF VENETA
PO BOX 458
VENETA, OR 97487

SUBJECT: Water Right Transfer Application T-11297

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11297. 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 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. The protest period will end 30 days after the Department's notice.

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 Pedersen
Transfer Program Advisor
Transfer and Conservation Section

cc: T-11297
Michael J. Mattick, District 2 Watermaster (*via e-mail*)
Martha O. Pagel, Agent for the applicant (*via e-mail*)

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

In the Matter of Transfer Application) PRELIMINARY DETERMINATION
T-11297, Lane 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
CITY OF VENETA
PO BOX 458
VENETA, OR 97487

Agent
SCHWABE, WILLIAMSON & WYATT
THE EQUITABLE CENTER
530 CENTER STREET NE, SUITE 400
SALEM OR 97301

Findings of Fact

Background

1. On September 15, 2011, City of Veneta filed an application to change the point of appropriation under Certificate 87206. The Department assigned the application number T-11297.
2. The right to be transferred is as follows:

Certificate: 87206 in the name of City of Veneta (perfected under Permit G-3968)
Use: Municipal uses
Priority Date: July 18, 1968
Rate: 0.2 cubic foot per second
Source: Well 1 within the Long Tom River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	5 W	WM	31	SE NW	852.75 FEET NORTH AND 1544 FEET EAST FROM W1/4 CORNER OF SECTION 31

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:

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
17 S	5 W	WM	31	SW NE
17 S	5 W	WM	31	SE NE
17 S	5 W	WM	31	NE NW
17 S	5 W	WM	31	NW NW
17 S	5 W	WM	31	SW NW
17 S	5 W	WM	31	SE NW
17 S	5 W	WM	31	NE SW
17 S	5 W	WM	31	NW SW
17 S	5 W	WM	31	SW SW
17 S	5 W	WM	31	SE SW
17 S	5 W	WM	31	NE SE
17 S	5 W	WM	31	NW SE
17 S	5 W	WM	32	SW NW
17 S	5 W	WM	32	NW SW
17 S	6 W	WM	36	NE NE
17 S	6 W	WM	36	SW NE
17 S	6 W	WM	36	SE NE
17 S	6 W	WM	36	NE SW
17 S	6 W	WM	36	SE SW
17 S	6 W	WM	36	NE SE
17 S	6 W	WM	36	NW SE
17 S	6 W	WM	36	SW SE
17 S	6 W	WM	36	SE SE
18 S	5 W	WM	6	NE NW
18 S	5 W	WM	6	NW NW
18 S	5 W	WM	6	SW NW
18 S	6 W	WM	1	NE NE
18 S	6 W	WM	1	SE NE
18 S	6 W	WM	1	NE NW
18 S	6 W	WM	1	NW NW

3. Transfer Application T-11297 proposes to move the authorized point of appropriation approximately 250 feet from the existing point of appropriation to:

	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 12 (LANE 68919)	17 S	5 W	WM	31	SE NW	708.5 FEET NORTH AND 1751 FEET EAST FROM W1/4 CORNER OF SECTION 31

4. Notice of the application for transfer was published on September 20, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On February 15, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11297 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 16, 2012, for the applicant to respond. 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.

Transfer Review Criteria (OAR 690-380-4010)

6. Water has been used according to the terms and conditions of the right. The right is not subject to forfeiture under ORS 540.610 because it is a right held by a municipality.
7. A pump, pipelines, and a municipal system sufficient to use the full amount of water allowed under the existing right are present.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in point of appropriation proposed in Transfer Application T-11297 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-11297 is approved, the final order will include the following:

1. *The change in point of appropriation proposed in application T-11297 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 87206 and any related decree.*
3. *Water right certificate 87206 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.*
 - b. *The water user shall maintain the meters or measuring devices in good working order.*
 - c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are 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, 2017**. 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 Joel Plahn/Dorothy Pedersen. If you have questions about the information in this document, you may reach Dorothy at 503-986-0890 or Dorothy.I.Pedersen@wrд.state.or.us

Protests should be addressed to the attention of Transfer and Conservation Section, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

**Notice of Preliminary Determination for
Water Right Transfer T-11297**

T-11297 filed by City of Veneta, PO Box 458, Veneta, OR 97487, proposes a point of appropriation change under Certificate 87206. The right allows the use of 0.20 cubic foot per second from a well in Sec. 31, T 17 S, R 5 W, W.M. for municipal uses in Sec. 31 and 32, T 17S, R 5 W; Sec. 36, T 17 S, R 6 W; Sec. 6, T 18 S, R 6 W; and Sec. 1, T 18 S, R 6 W. The applicant proposes to move the point of appropriation in Sec. 31, T 17 S, R 5 W. The Water Resources Department proposes to approve the transfer, based on the requirements of ORS Chapter 540 and OAR 690-380-5000.

Any person may protest the preliminary determination or may file a standing statement. Pursuant to OAR 690-380-4030(3) and OAR 690-382-9000, protests must raise all reasonably ascertainable issues and include all reasonably available arguments supporting the person's position. In addition, protests must be accompanied by a \$600 protest fee for non-applicant, or \$300 protest fee for applicant. A Water Right Transfer Protest Form is available at http://www.oregon.gov/OWRD/PUBS/docs/forms/TransferProtestForm09_09.pdf, or by calling 503-986-0888. Protests must be received by the Department on or before April 26, 2012. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.