



# Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department  
North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

April 4, 2012

VIA E-MAIL

**Applicant**

BEAVER WATER DISTRICT  
PO BOX 306  
CLOVERDALE, OR 97112

SUBJECT: Water Right Transfer Application T-11325

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11325. 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 and in the Tillamook Headlight Herald newspaper, 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 last date of newspaper publication.

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.

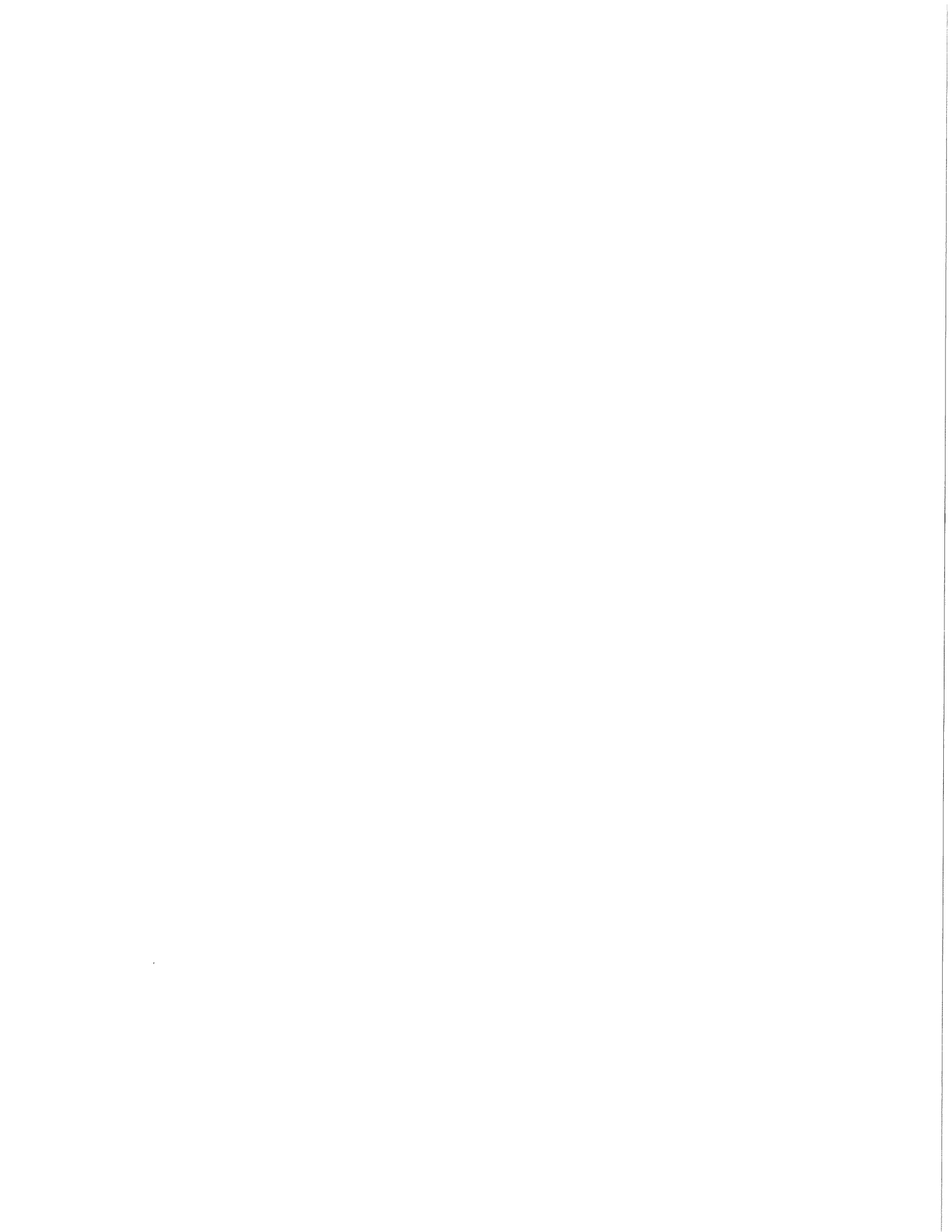
Please do not hesitate to contact me at 503-986-0858 or [Susan.M.Douthit@wrp.state.or.us](mailto:Susan.M.Douthit@wrp.state.or.us) if I may be of assistance.

Sincerely,

Susan Douthit  
District Analyst

cc: T-11325

Greg Beaman, District 1 Watermaster (*via e-mail*)



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

In the Matter of Transfer Application            )     PRELIMINARY DETERMINATION  
T-11325, Tillamook County                     )     PROPOSING APPROVAL OF A  
                                                                   )     CHANGE OF PLACE OF USE AND  
                                                                   )     CHANGE IN CHARACTER 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**

BEAVER WATER DISTRICT  
PO BOX 306  
CLOVERDALE, OR 97112

**Findings of Fact**

**Background**

1. On December 5, 2011, BEAVER WATER DISTRICT filed an application to change the place of use under Certificate 82602. The Department assigned the application number T-11325.
2. Final amendments clarifying the transfer request were received February 29, 2012.
3. The entirety of the right to be transferred is as follows:

**Certificate:** 82602 in the name of BEAVER WATER DISTRICT #49 (perfected under Permit S-46049)

**Use:** QUASI-MUNICIPAL USES

**Priority Date:** OCTOBER 13, 1981

**Rate:** 0.33 CUBIC FOOT PER SECOND (cfs)

**Source:** BEAVER CREEK, tributary of the NESTUCCA RIVER

**Authorized Point of Diversion:**

<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>Q-Q</b>	<b>Measured Distances</b>
3 S	9 W	WM	30	SE NE	420 FEET NORTH AND 380 FEET WEST FROM THE E1/4 CORNER OF SECTION 30

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:**

Twp	Rng	Mer	Sec	Q-Q
3 S	9 W	WM	29	NW NW
3 S	9 W	WM	29	SW NW
3 S	9 W	WM	29	SE NW
3 S	9 W	WM	29	NE SW
3 S	9 W	WM	29	NW SW
3 S	9 W	WM	30	NW NE
3 S	9 W	WM	30	SW NE
3 S	9 W	WM	30	SE NE
3 S	9 W	WM	30	SW SW
3 S	9 W	WM	30	NE SE
3 S	9 W	WM	30	NW SE
3 S	9 W	WM	31	NE NW
3 S	9 W	WM	31	NW NW
3 S	9 W	WM	31	SW NW
3 S	9 W	WM	31	SE NW

4. The authorized point of diversion, as listed on Certificate 82602, contains an erroneous description. All available information demonstrates the point of diversion should be identified as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	9 W	WM	30	SE NE	420 FEET NORTH AND 380 FEET WEST FROM THE SE CORNER, NESE, OF SECTION 30

5. Transfer Application T-11325 proposed to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q
3 S	9 W	WM	20	NE NW
3 S	9 W	WM	20	NW NW
3 S	9 W	WM	20	SW NW
3 S	9 W	WM	20	SE NW
3 S	9 W	WM	20	NE SW
3 S	9 W	WM	20	NW SW
3 S	9 W	WM	20	SW SW
3 S	9 W	WM	20	SE SW
3 S	9 W	WM	29	NW NE
3 S	9 W	WM	29	SW NE
3 S	9 W	WM	29	NE NW
3 S	9 W	WM	29	NW NW
3 S	9 W	WM	29	SW NW
3 S	9 W	WM	29	SE NW
3 S	9 W	WM	29	NE SW
3 S	9 W	WM	29	NW SW
3 S	9 W	WM	29	SW SW
3 S	9 W	WM	29	SE SW
3 S	9 W	WM	30	NE SE
3 S	9 W	WM	30	NW SE
3 S	9 W	WM	30	SW SE
3 S	9 W	WM	30	SE SE
3 S	9 W	WM	31	NW NE
3 S	9 W	WM	31	SW NE

Twp	Rng	Mer	Sec	Q-Q
3 S	9 W	WM	20	NE NW
3 S	9 W	WM	20	NW NW
3 S	9 W	WM	20	SW NW
3 S	9 W	WM	20	SE NW
3 S	9 W	WM	31	NE NW
3 S	9 W	WM	31	SW NW
3 S	9 W	WM	31	SE NW
3 S	9 W	WM	31	NE SW
3 S	9 W	WM	31	NW SW
3 S	9 W	WM	31	NW SE
3 S	10 W	WM	36	SE NE
3 S	10 W	WM	36	NE SE

6. The transfer application proposes to change the character of use from Quasi-municipal uses to Municipal uses.
7. Notice of the application for transfer was published on December 13, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

***Transfer Review Criteria [OAR 690-380-4010(2)]***

8. 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.
9. A diversion structure, ditch, pump and pipeline 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-11325.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.

**Determination and Proposed Action**

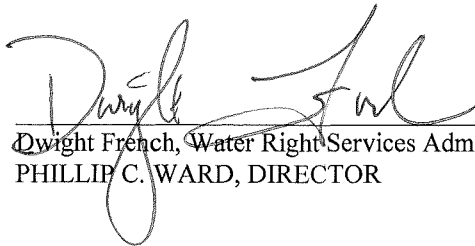
The change in place of use and character of use as proposed in Transfer Application T-11325 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-11325 is approved, the final order will include the following:*

1. *The change in place of use and change in character of use proposed in Transfer Application T-11325 are 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 82602 and any related decree.*

3. *Water right Certificate 82602 is cancelled.*
4. *Beaver Water District, or its successors, shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.*
5. *The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**. 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 changes and full beneficial use of the water.*
6. *When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 4<sup>th</sup> day of April, 2012.

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

This Preliminary Determination was prepared by Susan Douthit. If you have questions about the information in this document, you may reach me at 503-986-0858 or [Susan.M.Douthit@wrds.state.or.us](mailto:Susan.M.Douthit@wrds.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.