



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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July 13, 2012

VIA E-MAIL

Applicant

SUNRISE WATER AUTHORITY
TIM JANNSEN
10602 SE 129TH AVE
HAPPY VALLEY, OR 97086

SUBJECT: Water Right Transfer Application T-11147

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11147. 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 Clackamas Review 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) 986-0890 or Dorothy.I.Pedersen@wrdd.state.or.us if I may be of assistance.

Sincerely,

Dorothy I. Pedersen
Transfer Program Advisor

cc: T-11147
Jon J. Unger, District 20 Watermaster (*via e-mail*)
Theodore Ressler, 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-11147, Clackamas County |) | PROPOSING APPROVAL OF A |
| |) | CHANGE IN POINT OF |
| |) | APPROPRIATION AND 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.

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Findings of Fact

Background

1. On October 22, 2010, TIM JANNSEN, on behalf of SUNRISE WATER AUTHORITY, filed an application to change the point of appropriation under Certificate 43436. The Department assigned the application number T-11147.
2. On March 19, 2012, the applicant submitted modifications to the application and map via e-mail, to add a second point of appropriation.
3. The right to be transferred is as follows:

Certificate: 43436 in the name of DAMASCUS WATER DISTRICT (perfected under Permit G-2540)
Use: MUNICIPAL USE
Priority Date: DECEMBER 3, 1963
Rate: 0.26 CUBIC FOOT PER SECOND
Source: WELL 1 within the ROCK CREEK BASIN

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 Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|-----|-----|-----|-----|-------|---|
| 2 S | 3 E | WM | 5 | SE SE | 800 FEET NORTH AND 1200 FEET WEST FROM THE SE CORNER OF SECTION 5 |

Authorized Place of Use:

| MUNICIPAL USES | | | | |
|----------------|-----|-----|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q |
| 1 S | 3 E | WM | 32 | SW NE |
| 1 S | 3 E | WM | 32 | SE NE |
| 1 S | 3 E | WM | 32 | SE NW |
| 1 S | 3 E | WM | 32 | SE SW |
| 1 S | 3 E | WM | 32 | SW SE |
| 1 S | 3 E | WM | 33 | SW NW |
| 1 S | 3 E | WM | 33 | NE SW |
| 1 S | 3 E | WM | 33 | NW SW |
| 1 S | 3 E | WM | 33 | SW SW |
| 1 S | 3 E | WM | 33 | SE SW |
| 1 S | 3 E | WM | 33 | NW SE |
| 1 S | 3 E | WM | 33 | SW SE |
| 1 S | 3 E | WM | 33 | SE SE |
| 1 S | 3 E | WM | 34 | NW SW |
| 1 S | 3 E | WM | 34 | SW SW |
| 1 S | 3 E | WM | 34 | SW SE |
| 1 S | 3 E | WM | 34 | SE SE |
| 1 S | 3 E | WM | 35 | SW SW |
| 2 S | 3 E | WM | 2 | NW NW |
| 2 S | 3 E | WM | 2 | SW NW |
| 2 S | 3 E | WM | 2 | SW SW |
| 2 S | 3 E | WM | 2 | SE SW |
| 2 S | 3 E | WM | 3 | NE NE |
| 2 S | 3 E | WM | 3 | NW NE |
| 2 S | 3 E | WM | 3 | SW NE |
| 2 S | 3 E | WM | 3 | SE NE |
| 2 S | 3 E | WM | 3 | NE NW |
| 2 S | 3 E | WM | 3 | NW NW |
| 2 S | 3 E | WM | 3 | SW NW |
| 2 S | 3 E | WM | 3 | SE NW |
| 2 S | 3 E | WM | 3 | NE SW |
| 2 S | 3 E | WM | 3 | NW SW |
| 2 S | 3 E | WM | 3 | SW SW |
| 2 S | 3 E | WM | 3 | SE SW |
| 2 S | 3 E | WM | 3 | SE SE |
| 2 S | 3 E | WM | 4 | NW NE |
| 2 S | 3 E | WM | 4 | SE NE |
| 2 S | 3 E | WM | 4 | NE NW |
| 2 S | 3 E | WM | 4 | SW NW |
| 2 S | 3 E | WM | 4 | SE NW |
| 2 S | 3 E | WM | 4 | NE SW |
| 2 S | 3 E | WM | 4 | NW SW |
| 2 S | 3 E | WM | 4 | SW SW |
| 2 S | 3 E | WM | 4 | SE SW |

| MUNICIPAL USES | | | | |
|----------------|-----|-----|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q |
| 2 S | 3 E | WM | 4 | NE SE |
| 2 S | 3 E | WM | 4 | NW SE |
| 2 S | 3 E | WM | 4 | SW SE |
| 2 S | 3 E | WM | 4 | SE SE |
| 2 S | 3 E | WM | 5 | NE NE |
| 2 S | 3 E | WM | 5 | NW NE |
| 2 S | 3 E | WM | 5 | SW NE |
| 2 S | 3 E | WM | 5 | SE NE |
| 2 S | 3 E | WM | 5 | NE NW |
| 2 S | 3 E | WM | 5 | SW NW |
| 2 S | 3 E | WM | 5 | SE NW |
| 2 S | 3 E | WM | 5 | NE SW |
| 2 S | 3 E | WM | 5 | NW SW |
| 2 S | 3 E | WM | 5 | SW SW |
| 2 S | 3 E | WM | 5 | SE SW |
| 2 S | 3 E | WM | 5 | NE SE |
| 2 S | 3 E | WM | 5 | NW SE |
| 2 S | 3 E | WM | 5 | SW SE |
| 2 S | 3 E | WM | 5 | SE SE |
| 2 S | 3 E | WM | 6 | NE NE |
| 2 S | 3 E | WM | 6 | NW NE |
| 2 S | 3 E | WM | 6 | SW NE |
| 2 S | 3 E | WM | 6 | SE NE |
| 2 S | 3 E | WM | 6 | NE NW |
| 2 S | 3 E | WM | 6 | SW NW |
| 2 S | 3 E | WM | 6 | SE NW |
| 2 S | 3 E | WM | 6 | NE SW |
| 2 S | 3 E | WM | 6 | NW SW |
| 2 S | 3 E | WM | 6 | SE SW |
| 2 S | 3 E | WM | 6 | NE SE |
| 2 S | 3 E | WM | 6 | NW SE |
| 2 S | 3 E | WM | 6 | SW SE |
| 2 S | 3 E | WM | 6 | SE SE |
| 2 S | 3 E | WM | 7 | NE NE |
| 2 S | 3 E | WM | 7 | NW NE |
| 2 S | 3 E | WM | 7 | SW NE |
| 2 S | 3 E | WM | 7 | SE NE |
| 2 S | 3 E | WM | 7 | NE NW |
| 2 S | 3 E | WM | 7 | SE NW |
| 2 S | 3 E | WM | 7 | NW SW |
| 2 S | 3 E | WM | 7 | SW SW |
| 2 S | 3 E | WM | 7 | NE SE |
| 2 S | 3 E | WM | 7 | NW SE |
| 2 S | 3 E | WM | 7 | SW SE |
| 2 S | 3 E | WM | 7 | SE SE |
| 2 S | 3 E | WM | 8 | NE NE |
| 2 S | 3 E | WM | 8 | NW NE |
| 2 S | 3 E | WM | 8 | SW NE |
| 2 S | 3 E | WM | 8 | SE NE |
| 2 S | 3 E | WM | 8 | NE NW |

| MUNICIPAL USES | | | | |
|----------------|-----|-----|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q |
| 2 S | 3 E | WM | 8 | NW NW |
| 2 S | 3 E | WM | 8 | SW NW |
| 2 S | 3 E | WM | 8 | SE NW |
| 2 S | 3 E | WM | 8 | NW SW |
| 2 S | 3 E | WM | 8 | SW SW |
| 2 S | 3 E | WM | 8 | SE SW |
| 2 S | 3 E | WM | 9 | NE NE |
| 2 S | 3 E | WM | 9 | NW NE |
| 2 S | 3 E | WM | 9 | SW NE |
| 2 S | 3 E | WM | 9 | SE NE |
| 2 S | 3 E | WM | 9 | NE NW |
| 2 S | 3 E | WM | 9 | NW NW |
| 2 S | 3 E | WM | 9 | SW NW |
| 2 S | 3 E | WM | 9 | SE NW |
| 2 S | 3 E | WM | 9 | NE SE |
| 2 S | 3 E | WM | 9 | NW SE |
| 2 S | 3 E | WM | 9 | SW SE |
| 2 S | 3 E | WM | 9 | SE SE |
| 2 S | 3 E | WM | 10 | NE NE |
| 2 S | 3 E | WM | 10 | NW NE |
| 2 S | 3 E | WM | 10 | SW NE |
| 2 S | 3 E | WM | 10 | NE NW |
| 2 S | 3 E | WM | 10 | NW NW |
| 2 S | 3 E | WM | 10 | SW NW |
| 2 S | 3 E | WM | 10 | SE NW |
| 2 S | 3 E | WM | 10 | NE SW |
| 2 S | 3 E | WM | 10 | NW SW |
| 2 S | 3 E | WM | 10 | SW SW |
| 2 S | 3 E | WM | 10 | SE SW |
| 2 S | 3 E | WM | 10 | NW SE |
| 2 S | 3 E | WM | 10 | SW SE |
| 2 S | 3 E | WM | 11 | NE NW |
| 2 S | 3 E | WM | 15 | NE NW |
| 2 S | 3 E | WM | 15 | SW NW |
| 2 S | 3 E | WM | 16 | NE NE |
| 2 S | 3 E | WM | 16 | SE NE |
| 2 S | 3 E | WM | 16 | NE SE |
| 2 S | 3 E | WM | 17 | NW NW |
| 2 S | 3 E | WM | 18 | NE NE |
| 2 S | 3 E | WM | 18 | NW NE |
| 2 S | 3 E | WM | 18 | SE NE |

4. Transfer Application T-11147 proposes to replace the authorized point of appropriation with two wells approximately one mile southeast of the existing point of appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|-----|-----|-----|-----|-------|--|
| 2 S | 3 E | WM | 9 | SW NE | 1825 FEET SOUTH AND 1510 FEET WEST FROM THE NE CORNER OF SECTION 9 |
| 2 S | 3 E | WM | 9 | SW NE | 1825 FEET SOUTH AND 1560 FEET WEST FROM THE NE CORNER OF SECTION 9 |

5. The authorized well, with well log CLAC 4579, appears to access water from both an alluvial water-bearing zone and a basalt water-bearing zone. The ratio of alluvial to basalt groundwater appropriated is unknown, but the best available information suggests that approximately 75% of the water would come from the alluvial aquifer, with the remaining 25% from the basalt aquifer. Proposed Well 6 (CLAC 4683) accesses water from the basalt, and Proposed Well 6A (CLAC 4682) accesses alluvial water.
6. Notice of the application for transfer was published on November 2, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On May 30, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11147 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 30, 2012, for the applicant to respond.
8. On June 26, 2012, the applicant agreed to condition the right to allow 25% of the water (0.065 cfs) to come from basalt Well 6 and 75% (0.195 cfs) to come from alluvial Well 6A. 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 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, and delivery 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-11147.
11. With Well 6 limited to 25% of the authorized rate (0.065 cfs) and Well 6A limited to 75% of the rate (0.195 cfs), the proposed change would not result in enlargement of the right.
12. As conditioned to limit the use of the two wells as in the previous Finding of Fact, the proposed change would not result in injury to other water rights.

Determination and Proposed Action

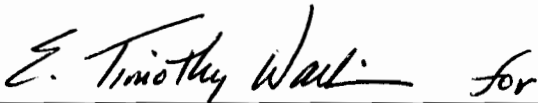
The changes in point of appropriation and additional point of appropriation proposed in Transfer Application T-11147 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11147 is approved, the final order will include the following:

1. *The changes in point of appropriation and additional point of appropriation proposed in application T-11147 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 43436 and any related decree.*
3. *Water right certificate 43436 is cancelled.*
4. *The quantity of water diverted at the new and additional points 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 aquifers (water sources) as the original point of appropriation, being no more than 0.065 cfs from Well 6 and 0.195 cfs from Well 6A.*
6. *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.*
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 changes 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 13th day of July, 2012.

 *E. Timothy Wall* for

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@ wrd.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.