



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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August 10, 2012

VIA E-MAIL

Applicant

COUGAR MOUNTAIN CATTLE COMPANY

C/O JOSEPH MOUNTAIN

4132 ALTAMONT DRIVE

KLAMATH FALLS, OR 97603

jmtcon@charter.net

SUBJECT: Water Right Transfer Application T-11405

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11405. 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 Lake County Examiner 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 503-986-0881 or teri.k.hranac@wrdd.state.or.us, if I may be of assistance.

Sincerely,

Teri Hranac

Transfer Specialist

Transfer and Conservation Section

Enclosures

cc: T-11405

Brian M. Mayer, District 12 Watermaster (*via e-mail*)

Dennis R. Glender, Agent for the applicant (*via e-mail at djglender@msn.com*)

Debra Jensen (*via e-mail at floralp@comcast.net*)



ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
28 S	16 E	WM	21	SE NW	WELL 4 (LAKE 1411) - 1990 FEET SOUTH AND 3280 FEET WEST FROM THE NE CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
28 S	16 E	WM	21	NE NW	6.4
28 S	16 E	WM	21	SW NW	29.5
28 S	16 E	WM	21	SE NW	9.0
TOTAL					44.9

5. Transfer Application T-11405 proposes to move the authorized point of appropriation approximately 3.3 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	16 E	WM	35	SE SE	WELL 7 (LAKE 50966) - 1320 FEET NORTH AND 1310 FEET WEST FROM THE SE CORNER OF SECTION 35

6. Transfer Application T-11405 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	16 E	WM	35	NW SE	13.5
27 S	16 E	WM	35	SW SE	31.4
TOTAL					44.9

7. The portion of the second right to be transferred is as follows:

Certificate: 80753 in the name of ZANE D. CHURCH (perfected under Permit G-7170)

Use: IRRIGATION of 354.7 ACRES

Priority Date: FEBRUARY 11, 1977

Rate: 4.44 CUBIC FEET PER SECOND (CFS), being 2.57 CFS from WELL 1, 0.22 CFS from WELL 2, and 1.65 CFS from WELL 3

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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Sources: THREE WELLS within the FORT ROCK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
28 S	16 E	WM	16	NW NE	WELL 1 (LAKE 1400) - 1290 FEET SOUTH AND 1330 FEET WEST FROM NE CORNER OF SECTION 16
28 S	16 E	WM	16	NE SE	WELL 2 (LAKE 1403) - 1350 FEET NORTH AND 1190 FEET WEST FROM THE SE CORNER OF SECTION 16
28 S	16 E	WM	16	SE SW	WELL 3 (LAKE 1402) - 1300 FEET NORTH AND 3840 FEET WEST FROM SE CORNER OF SECTION 16

Authorized Place of Use:

IRRIGATION					
WELL 1					
Twp	Rng	Mer	Sec	Q-Q	Acres
28 S	16 E	WM	16	NE NE	7.9
28 S	16 E	WM	16	NW NE	39.4
28 S	16 E	WM	16	SW NE	40.0
28 S	16 E	WM	16	SE NE	39.4
28 S	16 E	WM	16	NE NW	39.4
28 S	16 E	WM	16	SE NW	40.0
TOTAL					206.1

IRRIGATION					
WELL 2					
Twp	Rng	Mer	Sec	Q-Q	Acres
28 S	16 E	WM	16	NE SE	3.8
28 S	16 E	WM	16	NW SE	4.1
28 S	16 E	WM	16	SW SE	4.3
28 S	16 E	WM	16	SE SE	4.4
TOTAL					16.6

IRRIGATION					
WELL 3					
Twp	Rng	Mer	Sec	Q-Q	Acres
28 S	16 E	WM	16	NE SW	36.6
28 S	16 E	WM	16	NW SW	24.8
28 S	16 E	WM	16	SW SW	32.6
28 S	16 E	WM	16	SE SW	37.6
28 S	16 E	WM	16	NW SE	0.2
28 S	16 E	WM	16	SW SE	0.2
TOTAL					132.0

8. Transfer Application T-11405 proposes to move the authorized points of appropriation approximately 5.5 miles from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	16 E	WM	25	NE SE	WELL 5 (LAKE 51631) - 800 FEET SOUTH AND 10 FEET WEST FROM THE E $\frac{1}{4}$ CORNER OF SECTION 25
27 S	16 E	WM	25	SW SW	WELL 6 (LAKE 50469) - 1320 FEET NORTH AND 1310 FEET EAST FROM THE SW CORNER OF SECTION 25
27 S	16 E	WM	35	SE SE	WELL 7 (LAKE 50966) - 1320 FEET NORTH AND 1310 FEET WEST FROM THE SE CORNER OF SECTION 35

9. Transfer Application T-11405 also proposes to change the place of use of the right to:

IRRIGATION						
WELL 5						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
27 S	16 E	WM	25	NE SE		31.4
27 S	16 E	WM	25	NW SE		11.0
27 S	16 E	WM	25	SW SE		11.0
27 S	16 E	WM	25	SE SE		31.4
27 S	17 E	WM	30	NE SW		23.7
27 S	17 E	WM	30	NW SW	3	23.7
27 S	17 E	WM	30	SW SW	4	23.8
27 S	17 E	WM	30	SE SW		23.8
TOTAL						179.8

IRRIGATION						
WELL 6						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
27 S	16 E	WM	25	NE SW		31.4
27 S	16 E	WM	25	NW SW		31.4
27 S	16 E	WM	25	SW SW		31.4
TOTAL						94.2

IRRIGATION						
WELL 7						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
27 S	16 E	WM	35	NE SE		31.4
27 S	16 E	WM	35	NW SE		17.9
27 S	16 E	WM	35	SE SE		31.4
TOTAL						80.7

10. Notice of the application for transfer was published on April 24, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
11. On July 5, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11405 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 6, 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)

12. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
13. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-11405.
14. The proposed change would not result in enlargement of the rights.
15. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in points of appropriation and change in places of use proposed in Transfer Application T-11405 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.

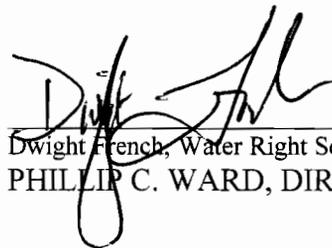
If Transfer Application T-11405 is approved, the final order will include the following:

1. *The change in points of appropriation and change in places of use proposed in Transfer Application T-11405 are approved.*
2. *The right to the use of the water is restricted to beneficial use at the places of use described, and is subject to all other conditions and limitations contained in Certificates 67902 and 80753 and any related decree.*
3. *Water right certificates 67902 and 80753 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
4. *The quantity of water diverted at the new points of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.*
5. *Water use measurement conditions:*
 - a. *Before water use may begin under this order, the water user shall install totalizing flow meters, 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 points of appropriation.*
7. *The former places of use of the transferred rights shall no longer receive water under the rights.*
8. *Full beneficial use of the water shall be made, consistent with the terms of this order, 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.*
9. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 10 day of August, 2012.



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

This Preliminary Determination was prepared by Teri Hranac. If you have questions about the information in this document, you may reach me at 503-986-0881 or Teri.K.Hranac@wrdd.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.