



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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October 4, 2012

VIA E-MAIL

CROSBY LAND COMPANY, LLC
KEVIN CROSBY
PO BOX 70
WOODBURN, OR 97071
KC16845@msn.com

SUBJECT: Water Right Transfer Application T-11422

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11422. 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 503-986-0881 or teri.k.hranac@wr.d.state.or.us, if I may be of assistance.

Sincerely,

Teri Hranac
Transfer Specialist
Transfer and Conservation Section

Enclosures

cc: T-11422
Mike L. McCord, District 16 Watermaster (*via e-mail*)
Jeanne Boatwright, Agent for the applicant (*via e-mail at jeanne@boatwrightengr.com*)



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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11422, Marion County)	PROPOSING APPROVAL 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

CROSBY LAND COMPANY, LLC
ATTN: KEVIN CROSBY
PO BOX 70
WOODBURN, OR 97071

Findings of Fact

Background

1. On May 16, 2012, CROSBY LAND COMPANY, LLC filed an application to change the point of appropriation under Certificate 87468. The Department assigned the application number T-11422.
2. The right to be transferred is as follows:
 - Certificate:** 87468 in the name of KEVIN CROSBY (perfected under Permit G-13143)
 - Use:** IRRIGATION of 62.1 ACRES
 - Priority Date:** JUNE 12, 1996
 - Rate:** 0.78 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.

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.

Source: A WELL within the WILLAMETTE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	1 W	WM	30	SE NE	58	920 FEET NORTH AND 50 FEET WEST FROM THE E¼ CORNER OF SECTION 30

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	1 W	WM	19	SE SE	69	2.2
4 S	1 W	WM	20	SW SW	69	18.5
4 S	1 W	WM	29	NW NW	69	14.6
4 S	1 W	WM	29	NW NW	58	2.5
4 S	1 W	WM	29	SW NW	58	1.0
4 S	1 W	WM	30	NE NE	69	8.8
4 S	1 W	WM	30	NE NE	58	9.3
4 S	1 W	WM	30	SE NE	58	5.2

- Transfer Application T-11422 proposes to move the authorized point of appropriation approximately 250 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	1 W	WM	30	SE NE	58	1900 FEET SOUTH AND 4140 FEET EAST OF THE SW CORNER OF AMABLE PETIT DLC 69

- Notice of the application for transfer was published on May 22, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On August 31, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11422 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 28, 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)

- 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. Confirming Certificate 87468 was issued within the last five years on March 20, 2012.
- A pump, pipeline, 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-11422.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.

Determination and Proposed Action

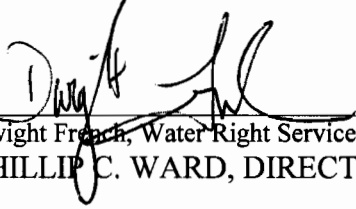
The change in point of appropriation proposed in Transfer Application T-11422 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11422 is approved, the final order will include the following:

1. *The change in point of appropriation proposed in application T-11422 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 87468 and any related decree.*
3. *Water right certificate 87468 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 the new point of appropriation.*
 - b. *The water user shall maintain the meter or measuring device in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is 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, 2014**. 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 3 day of October, 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@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.