



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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November 16, 2012

MEDURI FARMS
PO BOX 636
DALLAS, OR 97338

SUBJECT: Water Right Transfer Application T-11316

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11316. 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 503-986-0886 or Patrick.K.Starnes@wrd.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Specialist

cc: T-11316
Mike McCord, District 16 Watermaster (*via e-mail*)
Jim Schuette, CWRE/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)
T-11316, Linn County)
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PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF A
CHANGE IN POINTS OF
APPROPRIATION AND AN
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.

Applicant

MEDURI FARMS
PO BOX 636
DALLAS, OR 97338

Findings of Fact

Background

1. On November 10, 2011, MEDURI FARMS, filed an application to change the points of appropriation under Certificates 87141, 87142, and 87143, and for an additional point of appropriation under Certificate 87144. The Department assigned the application number T-11316.
2. On July 27, 2012, the applicant’s agent amended the transfer application and map to add supplemental irrigation acres authorized under Certificate 87143.
3. The first right to be transferred is as follows:

Certificate: 87141 in the name of KENNETH E. AND MARY M. CUNNINGHAM
(perfected under Permit G-651)

Use: IRRIGATION OF 33.2 ACRES

Priority Date: SEPTEMBER 5, 1957

Rate: 0.43 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

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.

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.

Source: UPPSTAD WELL 3 within the NORTH SANTIAM RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
10 S	2 W	WM	8	SW SW	5	UPPSTAD WELL 3 - 925 FEET NORTH AND 950 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
10 S	2 W	WM	8	NW SW	5	1.8
10 S	2 W	WM	8	SW SW	5	31.2
10 S	2 W	WM	8	SE SW	6	0.2

4. Transfer Application T-11316 proposes to move the authorized point of appropriation approximately 20 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
10 S	2 W	WM	8	SW SW	5	WELL 3-P - 905 FEET NORTH AND 950 FEET EAST FROM THE SW CORNER OF SECTION 8

5. The second right to be transferred is as follows:

Certificate: 87142 in the name of KENNETH E. AND MARY M. CUNNINGHAM (perfected under Permit G-2113)

Use: IRRIGATION OF 50.7 ACRES

Priority Date: APRIL 10, 1962

Rate: 0.63 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.

Source: UPPSTAD WELL 5 within the NORTH SANTIAM RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
10 S	2 W	WM	8	SW SE	7	UPPSTAD WELL 5 - 1010 FEET NORTH AND 3110 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
10 S	2 W	WM	8	SW SW	5	2.4
10 S	2 W	WM	8	SE SW	6	12.4
10 S	2 W	WM	8	NW SE	8	8.4
10 S	2 W	WM	8	SW SE	7	27.5

6. Transfer Application T-11316 proposes to move the authorized point of appropriation approximately 1000 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
10 S	2 W	WM	8	SW SE	7	WELL 5-P - 100 FEET NORTH AND 2890 FEET EAST FROM THE SW CORNER OF SECTION 8

7. The third right to be transferred is as follows:

Certificate: 87143 in the name of KENNETH E. AND MARY M. CUNNINGHAM (perfected under Permit G-10727)

Uses: IRRIGATION OF 47.0 ACRES AND SUPPLEMENTAL IRRIGATION OF 4.3 ACRES

Priority Date: MAY 12, 1987

Rate: 0.64 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.

Source: WELL 6 within the NORTH SANTIAM RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
10 S	2 W	WM	8	SE SW	3	WELL 6 - 850 FEET NORTH AND 2050 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
10 S	2 W	WM	8	NE SW	3	6.80
10 S	2 W	WM	8	NE SW	5	3.40
10 S	2 W	WM	8	NW SW	5	1.08
10 S	2 W	WM	8	SW SW	5	2.92
10 S	2 W	WM	8	SW SW	3	1.70
10 S	2 W	WM	8	SE SW	6	2.30
10 S	2 W	WM	8	SE SW	3	20.10
10 S	2 W	WM	8	SE SW	5	1.90
10 S	2 W	WM	8	NW SE	8	4.10
10 S	2 W	WM	8	NW SE	3	1.30
10 S	2 W	WM	8	SW SE	7	1.40

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
10 S	2 W	WM	8	NW SW	5	0.62
10 S	2 W	WM	8	SW SW	5	3.48
10 S	2 W	WM	8	SE SW	6	0.20

8. Transfer Application T-11316 proposes to move the authorized point of appropriation approximately 20 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
10 S	2 W	WM	8	SE SW	3	WELL 6-P - 830 FEET NORTH AND 2050 FEET EAST FROM THE SW CORNER OF SECTION 8

9. The fourth right to be transferred is as follows:

Certificate: 87144 in the name of KENNETH E. AND MARY M. CUNNINGHAM (perfected under Permit G-1501)
Use: IRRIGATION OF 34.0 ACRES
Priority Date: DECEMBER 16, 1959
Rate: 0.43 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.
Source: UPPSTAD WELL 4 within the SANTIAM RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
10 S	2 W	WM	8	SE SE	10	UPPSTAD WELL 4 - 625 FEET NORTH AND 4325 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
10 S	2 W	WM	8	NE SE	9	10.4
10 S	2 W	WM	8	NW SE	8	6.0
10 S	2 W	WM	8	SW SE	7	8.4
10 S	2 W	WM	8	SE SE	10	9.2

10. Transfer Application T-11316 proposes an additional point of appropriation approximately 375 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
10 S	2 W	WM	8	SE SE	62	WELL 8 - 950 FEET NORTH AND 4425 FEET EAST FROM THE SW CORNER OF SECTION 8

11. Notice of the application for transfer was published on November 22, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
12. On August 1, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11316 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 31, 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)

13. 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.
14. Pumps, pipelines, and sprinkler systems 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-11316.
15. The proposed changes would not result in enlargement of the rights.
16. The proposed changes would not result in injury to other water rights.

Determination and Proposed Action

The change in points of appropriation and additional point of appropriation proposed in Transfer Application T-11316 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-11316 is approved, the final order will include the following:

- 1. The change in points of appropriation and additional point of appropriation proposed in Transfer Application T-11316 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 Certificates 87141, 87142, 87143, and 87144, and any related decree.*
- 3. Water right certificates 87141, 87142, 87143, and 87144, are cancelled.*
- 4. The quantity of water diverted at the new point of appropriation (Well 3-P) shall not exceed the quantity of water lawfully available at the original point of appropriation (Uppstad Well 3).*
- 5. The quantity of water diverted at the new point of appropriation (Well 5-P) shall not exceed the quantity of water lawfully available at the original point of appropriation (Uppstad Well 5).*
- 6. The quantity of water diverted at the new point of appropriation (Well 6-P) shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 6).*
- 7. The quantity of water diverted at the additional point of appropriation (Well 8), together with that diverted at the original point of appropriation (Well 4), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 4).*
- 8. 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 (new and existing).*
 - 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.*
- 9. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
- 10. 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 changes and full beneficial use of the water.*

11. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 12th day of November 2012.


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

This Preliminary Determination was prepared by Kelly Starnes. If you have questions about the information in this document, you may reach me at 503-986-0886 or Patrick.K.Starnes@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 97301-1266.