



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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November 20 2012

VIA E-MAIL

HILAND WATER CORPORATION
23875 NE DILLON ROAD
NEWBERG, OR 97132
silas@hilandwater.com
silasolson@gmail.com

SUBJECT: Water Right Transfer Application T-11387

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11387. 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 News Guard 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@wrds.state.or.us, if I may be of assistance.

Sincerely,

Teri Hranac
Transfer Specialist
Transfer and Conservation Section

cc: T-11387
Greg Beaman, District 1 Watermaster (*via e-mail*)
John E Borden, Agent for the applicant (*via e-mail at jeborden@comcast.net*)



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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11387, Lincoln County)	PROPOSING APPROVAL OF A
)	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

HILAND WATER CORPORATION
23875 NE DILLON ROAD
NEWBERG, OR 97132

Agent

JOHN BORDEN
5597 RIVER STREET
WEST LINN, OR 97068

Findings of Fact

Background

1. On March 29, 2012, HILAND WATER CORPORATION filed an application to change the character of use under Certificate 40997. The Department assigned the application number T-11387.
2. On September 28, 2012, applicant's agent confirmed via e-mail that the application should be in the name of Hiland Water Corporation and that Silas Olson, Chief Financial Officer, was authorized to sign on behalf of the corporation.
3. The right to be transferred is as follows:

Certificate:	40997 in the name of JAMES O. DAVIS (perfected under Permit S-35001)
Use:	DOMESTIC USE OF ONE FAMILY AND DOMESTIC HOOK-UP FOR 66 TRAILER SITES, INCLUDING THE IRRIGATION OF LAWN AND GARDEN NOT TO EXCEED ½ ACRE IN AREA PER FAMILY
Priority Date:	MARCH 12, 1970
Rate:	0.03 CUBIC FOOT PER SECOND
Source:	UNNAMED STREAM, tributary to the SALMON RIVER

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 Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	10 W	WM	29	SE SE	566 FEET NORTH AND 20 FEET WEST FROM THE SE CORNER OF SECTION 29

Authorized Place of Use:

DOMESTIC INCLUDING LAWN AND GARDEN				
Twp	Rng	Mer	Sec	Q-Q
6 S	10 W	WM	29	SW SE
6 S	10 W	WM	29	SE SE
6 S	10 W	WM	32	NE NE
6 S	10 W	WM	32	NW NE

4. Transfer Application T-11387 proposes to change the character of use to quasi-municipal.
5. Notice of the application for transfer was published on April 3, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. On October 3, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11387 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 5, 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(2)]

7. 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.
8. A diversion structure and ditch 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-11387.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

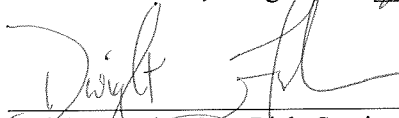
The change in character of use proposed in Transfer Application T-11387 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-11387 is approved, the final order will include the following:

1. *The change in character of use proposed in Transfer Application T-11387 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 40997 and any related decree.*
3. *Water right certificate 40997 is cancelled.*
4. *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 diversion.*
 - 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.*
5. *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.*
6. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 20 day of November, 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@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.

**Notice of Preliminary Determination for
Water Right Transfer T-11387**

T-11387 filed by Hiland Water Corporation, 23875 NE Dillon Road, Newberg, OR 97132, proposes a character of use change under Certificate 40997. The right allows the use of 0.03 cubic foot per second from an unnamed stream in Sec. 29, T 6 S, R 10 W, W.M. for domestic use of one family and domestic hook up for 66 trailer sites, including the irrigation of lawn and garden not to exceed ½ acre in area per family in Sects. 29 and 32, T 6 S, R 10 W, W.M. The applicant proposes to change the character of use to quasi-municipal. The Water Resources Department proposes to approve the transfer, based on the requirements of ORS Chapter 540 and OAR 690-380-5000.

Any person may file, jointly or severally, a protest or standing statement within 30 days after the last date of newspaper publication of this notice, **[DATE OF LAST PUBLICATION]**. Call (503) 986-0883 to obtain additional information or a protest form. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.