



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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December 5, 2012

VIA E-MAIL

DEL RIO VINEYARDS LLC
ATTN ROB WALLACE
PO BOX 906
GOLD HILL, OR 97525
rob@delriovineyards.com

SUBJECT: Water Right Transfer Application T-11410

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11410. 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 Medford Mail Tribune 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-11410
Larry P. Menteer, District 13 Watermaster (*via e-mail*)
Harold Center, CWRE #152, (*via e-mail at hcenterpls@charter.net*)



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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11410, Jackson County)	PROPOSING APPROVAL OF A
)	CHANGE IN POINT OF DIVERSION

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

DEL RIO VINEYARDS, LLC
ATTEN: ROB WALLACE
PO BOX 906
GOLD HILL, OR 97525

Findings of Fact

Background

1. On April 26, 2012, DEL RIO VINEYARDS, LLC filed an application to change the point of diversion under Certificate 56562. The Department assigned the application number T-11410.
2. The right to be transferred is as follows:

Certificate: 56562 in the name of DEL RIO ORCHARDS (perfected under Permit S-35271)

Use: PRIMARY IRRIGATION OF 23.30 ACRES AND SUPPLEMENTAL IRRIGATION OF 42.50 ACRES

Priority Date: JUNE 18, 1970

Rate: 0.82 CUBIC FOOT PER SECOND

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.

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands shall be limited to 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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year. The right shall be limited to any deficiency in the available supply of any prior right for the same land and shall not exceed the limitation allowed herein.

Source: ROGUE RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
36 S	3 W	WM	17	SW SW	100 FEET NORTH AND 1280 FEET EAST FROM THE SW CORNER OF SECTION 17

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	3 W	WM	17	SW NW	3.4
36 S	3 W	WM	17	SE NW	0.9
36 S	3 W	WM	17	NE SW	16.7
36 S	3 W	WM	18	SE NE	0.6
36 S	3 W	WM	18	NE SE	1.7
Total					23.3

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	3 W	WM	17	SW NW	16.0
36 S	3 W	WM	17	SE NW	0.2
36 S	3 W	WM	17	NE SW	1.4
36 S	3 W	WM	17	NW SW	22.8
36 S	3 W	WM	18	NE SE	2.1
Total					42.5

3. Transfer Application T-11410 proposes to move the authorized point of diversion approximately 0.5 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
36 S	3 E	WM	19	NW NE	7	760 FEET SOUTH AND 1390 FEET WEST FROM THE SW CORNER OF SECTION 17
36 S	3 W	WM	20	NW NW	3	270 FEET SOUTH AND 270 FEET EAST FROM THE SW CORNER OF SECTION 17

4. Notice of the application for transfer was published on May 8, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

5. On November 1, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11410 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 3, 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.
6. The Oregon Department of Fish and Wildlife has determined that a fish screen is necessary at each new point of diversion to prevent fish from entering the diversions and that the diversions are currently equipped with an appropriate fish screen.

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 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-11410.
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 point of diversion proposed in Transfer Application T-11410 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-11410 is approved, the final order will include the following:

1. *The change in point of diversion proposed in Transfer Application T-11410 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 56562 and any related decree.*
3. *Water right certificate 56562 is cancelled.*
4. *The quantity of water diverted at the new points of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.*

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 each new 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.*
6. *The water user shall operate and maintain an approved fish screen at each new point of diversion. If Oregon Department of Fish and Wildlife (ODFW) determines the screens are not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screens are functioning properly.*
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 6 day of December, 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.