

Water Resources Department

North Mall Office Building 725 Summer St. NE, Suite A Salem, OR 97301 Phone 503-986-0900 FAX 503-986-0904 www.wrd.state.or.us

January 22, 2013

VIA E-MAIL

HILAND WATER CORPORATION 23875 NE DILLON RD NEWBERG, OR 97132

SUBJECT: Water Right Transfer Application T-11491

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11491. 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 503-986-0886 or <u>Patrick.K.Starnes@wrd.state.or.us</u> if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Specialist

cc:

T-11491

Greg Beaman, District 1 Watermaster (via e-mail)

John Bordon, 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)	PRELIMINARY DETERMINATION
T-11491, 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 RD NEWBERG, OR 97132

Findings of Fact

Background

1. On November 20, 2012, Hiland Water Corporation filed an application to change the character of use under Certificate 58388. The Department assigned the application number T-11491.

2. The right to be transferred is as follows:

Certificate: 58388 in the name of HUGH J. GALLE (perfected under Permit S-49582)

Use: DOMESTIC USE FOR 5 FAMILIES INCLUDING THE IRRIGATION OF

NOT TO EXCEED 1/2 ACRE LAWN AND NON-COMMERCIAL

GARDEN FOR EACH

Priority Date: NOVEMBER 20, 1985 for 0.01 CFS; DECEMBER 12, 1985 for 0.01 CFS

Rate: 0.02 CUBIC FOOT PER SECOND

Source: UNNAMED STREAM, tributary to the SALMON RIVER

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

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 Place of Use:

DOMESTIC EXPANDED										
Twp	Rng	Mer	Sec	Q-Q						
6 S	10 W	WM	29	SW SE						
6 S	10 W	WM	32	NE NE						

- 3. Transfer Application T-11491 proposes to change the character of use to quasi-municipal use.
- 4. Notice of the application for transfer was published on November 27, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 5. On January 19, 2013, the Department e-mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11491 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 16, 2013, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.

Transfer Review Criteria [OAR 690-380-4010(2)]

- 6. Water has been used within the last five years. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 7. 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 T-11491.
- 8. The proposed change would not result in enlargement of the right.
- 9. 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-11491 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-11491 is approved, the final order will include the following:

- 1. The change in character of use proposed in Transfer Application T-11491 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 58388 and any related decree.
- 3. Water right certificate 58388 is cancelled.

- 4. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. 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.
- 5. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 22 day of January 2013.

Dwight Frence Water Right Services Administrator, for

PHILLIP/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@wrd.state.or.us.