



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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April 11, 2012

VIA E-MAIL

SHERWOOD SCHOOL DISTRICT
ATTN: WAYNE LOWRY
23295 SW MAIN ST
SHERWOOD, OR 97140
wlowry@sherwood.k.12.or.us

SUBJECT: Water Right Transfer Application T-11540

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11540. 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 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@wrds.state.or.us, if I may be of assistance.

Sincerely,

Teri Hranac
Transfer Specialist
Transfer and Conservation Section

Enclosures

cc: T-11540
Cole Beaman, District 18 Watermaster (*via e-mail*)
Martha O. Pagel, Agent for the applicant (*via e-mail at mpagel@schwabe.com*)



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

In the Matter of Transfer Application) PRELIMINARY DETERMINATION
T-11540, Washington County) PROPOSING APPROVAL OF A
) CHANGE IN PLACE OF USE

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

SHERWOOD SCHOOL DISTRICT
23295 SW MAIN ST
SHERWOOD, OR 97140

Agent

MARTHA PAGEL
SCHWABE, WILLIAMSON & WYATT
530 CENTER STREET NE, SUITE 400
SALEM, OR 97301

Findings of Fact

1. On February 26, 2013, SHERWOOD SCHOOL DISTRICT filed an application to change the place of use under Certificate 85185. The Department assigned the application number T-11540.
2. Transfer application T-11540 was submitted as a companion to Allocation of Conserved Water Application CW-60.
3. Transfer Application T-10780 was previously submitted by the applicant on February 6, 2009, in conjunction with CW-60. Due to erroneous information and guidance from the Department, the application was withdrawn on August 18, 2009, recorded at Special Order Volume 78, Page 718. Further review by the Department of CW-60 required the submission of a transfer application, and Transfer Application T-11540 was filed.
4. Notice of the application for transfer was published on March 5, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On April 5, 2013, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11540 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 5, 2013, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary

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| 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. |
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Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

6. The portion of the right to be transferred is as follows:

Certificate: 85185 in the name of SHERWOOD SCHOOL DISTRICT; DAN C. JAMISON (perfected under Permit G-11787)
Use: IRRIGATION of 11.36 ACRES
Priority Date: JUNE 21, 1991
Rate: 0.142 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.
Period of Use: MARCH 1 THROUGH OCTOBER 31
Source: A WELL within the CHICKEN CREEK BASIN

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|-----|-----|-----|-----|-------|--|
| 2 S | 1 W | WM | 30 | NW SW | 795 FEET SOUTH AND 1015 FEET EAST FROM THE NW CORNER OF THE NWSW OF SECTION 30 |

Authorized Place of Use:

| IRRIGATION | | | | | |
|------------|-----|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 2 S | 1 W | WM | 30 | NE SW | 1.16 |
| 2 S | 1 W | WM | 30 | NW SW | 10.20 |

7. Transfer Application T-11540 proposes to change the place of use of the right to:

| IRRIGATION | | | | | |
|------------|-----|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 2 S | 1 W | WM | 30 | NE SW | 4.10 |
| 2 S | 1 W | WM | 30 | NW SW | 1.03 |
| 2 S | 1 W | WM | 30 | SW SW | 6.23 |

Transfer Review Criteria (OAR 690-380-4010)

8. Water has been used within the last five years prior to the submittal of Transfer Application T-10780, 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.

9. Because of the delay in processing the applications and the misinformation causing the withdrawal of application T-10780, the Department is utilizing the time period from the filing of Transfer Application T-10780 for the determination of the evidence of use.
10. 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-10780.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Determination and Proposed Action

The change in place of use proposed in Transfer Application T-11540 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 and Transfer Application will be combined with the Order for Allocation of Conserved Water Application CW-60.

If Transfer Application T-11540 is approved, the final order will include the following:

1. *The change in place of use proposed in application T-11540 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 85185 and any related decree.*
3. *Water right certificate 85185 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
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 appropriation (new and existing).*
 - 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.*
5. *The former place of use of the transferred right shall no longer receive water under the right.*
6. *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.

7. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 10 day of April, 2013.


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@wrds.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.