



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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July 24, 2013

VIA E-MAIL

US FISH AND WILDLIFE SERVICE
C/O TIM MAYER
911 NE 11TH AVENUE
PORTLAND, OR 97232-4181

SIDNEY IRRIGATION COOPERATIVE
C/O MIKE PIESKER, CHAIR
PO BOX 736
JEFFERSON, OR 97352

SUBJECT: Water Right Transfer Application T-11545

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11545. 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 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 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@wrdd.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Specialist
Transfer and Conservation Section

cc: Files T-11545
Mike L. McCord, District 16 Watermaster (*via e-mail*)
Gary Ball, Agent/CWRE for the applicant (*via e-mail*)

encs

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

In the Matter of Transfer Application) **PRELIMINARY DETERMINATION**
T-11545, Marion County) **PROPOSING APPROVAL OF A**
) **CHANGE IN PLACE 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.

Applicants

US FISH AND WILDLIFE SERVICE
C/O TIM MAYER
911 NE 11TH AVENUE
PORTLAND, OR 97232-4181

SIDNEY IRRIGATION COOPERATIVE
C/O MIKE PIESKER, CHAIR
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Findings of Fact

Background

1. On March 12, 2013, US FISH AND WILDLIFE SERVICE AND SIDNEY IRRIGATION COOPERATIVE filed an application to change the place of use under Certificate 54310. The Department assigned the application number T-11545.
2. Notice of the application for transfer was published on March 19, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On July 15, 2013, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11545 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of August 14, 2013, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination.
4. The portion of the right to be transferred is as follows:

Certificate: 54310 in the name of SIDNEY IRRIGATION COOPERATIVE (confirmed by North Santiam River decree)
Use: IRRIGATION OF 29.8 ACRES
Priority Date: MAY 14, 1909
Rate: 0.37 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: NOTE: To compensate for losses between the point of diversion to the place of use, an additional amount not exceeding ten percent is allowed.
Source: NORTH SANTIAM RIVER, tributary to the SANTIAM RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	2 W	WM	34	SW NE	50 FEET NORTH AND 1930 FEET EAST FROM THE E¼ CORNER OF SECTION 34.

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
9 S	3 W	WM	16	SE NW		1.6
9 S	3 W	WM	16	NE SW		0.3
9 S	3 W	WM	16	NW SW		11.2
9 S	3 W	WM	16	SW SW		6.7
9 S	3 W	WM	16	SE SW	3	2.5
9 S	3 W	WM	16	NW SE	2	1.9
9 S	3 W	WM	17	NE SE	2	5.6
Total						29.8

5. Transfer Application T-11545 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
9 S	3 W	WM	16	SW SW		9.2
9 S	3 W	WM	17	NE SE	2	5.2
9 S	3 W	WM	21	NW NW	1	15.4
Total						29.8

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

6. 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.
7. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-11545.
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.

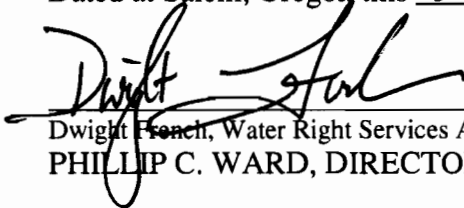
Determination and Proposed Action

The change in place of use proposed in Transfer Application T-11545 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-11545 is approved, the final order will include the following:

- 1. The change in place of use proposed in Transfer Application T-11545 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 54310 and any related decree.*
- 3. Water Right Certificate 54310 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 4. The former place of use of the transferred right shall no longer receive water under the right.*
- 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 23 day of July, 2013.


Dwight French, 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@wrđ.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.