



Oregon

John A. Kitzhaber, MD, Governor

September 24, 2013

VIA E-MAIL

Applicant

COYOTE CREEK GROUP LLC
700 DEBORAH RD SUITE 200
NEWBERG, OR 97132
mikew@willcutscompany.com

Agent

JOHN BORDEN CONSULTING
5597 RIVER ST
WEST LINN, OR 97068
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Water Resources Department

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

SUBJECT: Water Right Transfer Application T-11531

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11531. 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 Newberg Graphic 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 503-986-0890 or Dorothy.I.Pedersen@ wrd.state.or.us if I may be of assistance.

Sincerely,

Susan Douthit
Transfer and Conservation Section

cc: T-11531
Mike L. McCord, District 16 Watermaster (*via e-mail*)
Highland Water Corporation, Receiving Landowner (*via e-mail*)
encs



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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11531, Yamhill County)	PROPOSING APPROVAL OF
)	CHANGES IN POINT OF
)	APPROPRIATION, PLACE OF USE
)	AND CHARACTER 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

COYOTE CREEK GROUP LLC
700 DEBORAH RD SUITE 200
NEWBERG, OR 97132

Water System Owner

HILAND WATER CORPORATION
700 DEBORAH RD., SUITE 200
NEWBERG, OR 97132

Findings of Fact

1. On February 7, 2013, COYOTE CREEK GROUP LLC filed an application to change the point of appropriation, to change the place of use and to change the character of use under Certificate 87859. The Department assigned the application number T-11531.
2. HIGHLAND WATER CORPORATION owns the water system and will be responsible for completion of the changes.
3. Notice of the application for transfer was published on February 12, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. On May 10, 2013, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11531 and sent a copy to the applicants. The Department requested the resolution of several discrepancies contained in the transfer application and transfer map.
5. On July 1, 2013, the applicant submitted a letter and revised transfer map that addressed most of the discrepancies previously identified, however, documentation of owner consent was incomplete and there were some questions regarding the location of the point of appropriation and the map, so additional information was requested on August 1, 2013.

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.

6. On September 6, 2013, the applicant's agent submitted a letter including additional land ownership information, clarification of the point of appropriation location, a revised map, a request to withdraw some acreage from the transfer application. The agent requested to continue processing the transfer application as revised. This document reflects the revisions.

7. The right to be transferred is as follows:

Certificate: 87859 in the name of COYOTE CREEK GROUP LLC (perfected under Permit G-13458)

Use: IRRIGATION of 12.08 ACRES

Priority Date: APRIL 20, 1995

Rate: 0.059 CUBIC FOOT PER SECOND (cfs)

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 cfs, 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: WELL 1 (YAMH 3865) in the CHEHALEM CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	2 W	WM	18	SW SW	39	1330 FEET SOUTH AND 1850 FEET WEST FROM THE NW CORNER OF DLC 54

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	2 W	WM	18	NE SW	39	2.49
3 S	2 W	WM	18	NW SW	39	0.23
3 S	2 W	WM	18	SW SW	39	2.61
3 S	2 W	WM	18	SE SW	39	6.75
Total:						12.08

8. Transfer Application T-11531 proposes to move the authorized point of appropriation approximately 1,300 feet northwest from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	2 W	WM	18	NW SW	39	1887 FEET NORTH AND 353 FEET EAST FROM THE SW CORNER OF SECTION 18

9. Transfer Application T-11531 proposes to change the character of use to QUASI-MUNICIPAL and to change the season of use to year-round.

10. Transfer Application T-11531 also proposes to change the place of use of the right to:

QUASI-MUNICIPAL						
Twp	Rng	Mer	Sec	Q-Q	DLC	Tax Lot
3 S	2 W	WM	18	NW SW	39	2900
3 S	3 W	WM	13	NE SE	60	1500
3 S	3 W	WM	13	NE SE	60	2902
3 S	3 W	WM	13	NE SE	60	2903
3 S	3 W	WM	13	NE SE	60	2904
3 S	3 W	WM	13	NE SE	60	2905
3 S	3 W	WM	13	NE SE	60	2906

11. Pursuant to OAR 690-380-2410, water for quasi-municipal uses may not exceed the rate and duty of the right. A change in character of use may not be allowed to enlarge a water right. The annual volume of water that can be beneficially used for irrigation of 12.08 acres is $12.08 \text{ acres} \times 2.5 \text{ acre-feet per acre} = 30.2 \text{ acre-feet (AF)}$.
12. The maximum rate of diversion for the right should be pro-rated to 0.035 cfs, in order to avoid enlargement of the right with the extension of the season, from March 1 through October 31, to year-round. $(0.059 \text{ cfs} \times (214/365 \text{ days})) = 0.035 \text{ cfs}$.

Transfer Review Criteria (OAR 690-380-4010)

13. 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.
14. 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-11531.
15. The proposed change, as conditioned in Findings of Fact #11 and #12, would not result in enlargement of the right.
16. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in point of appropriation, change in place of use and change in character of use proposed in Transfer Application T-11531 appear 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.

If Transfer Application T-11531 is approved, the final order will include the following:

- The change in point of appropriation, change in place of use and change in character of use proposed in application T-11531 are 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 87859 and any related decree.*
3. *Water right certificate 87859 is cancelled. A new certificate will be issued describing the portion of the right not affected by this transfer*
4. *The proposed Quasi-Municipal use may be allowed year round and is limited to a rate not to exceed 0.035 cfs and a total maximum volume of 30.2 acre-feet per year.*
5. *The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.*
6. *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 the point of appropriation.*
 - 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.*
7. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
8. *The former place of use of the transferred right shall no longer receive water under the right.*
9. *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 changes and full beneficial use of the water.*
10. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 26 day of September, 2013.


Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may contact Susan Douthit by telephone at 503-986-0858 or via email at Susan.M.Douthit@wrд.state.or.us.