



# Oregon

John A. Kitzhaber, MD, Governor

## Water Resources Department

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725 Summer Street NE, Suite A  
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October 11, 2013

HIGH DESERT ESTATES HOMEOWNERS ASSOCIATION INC.  
4488 SE JERRY DR  
PRINEVILLE OR 97754

SUBJECT: Water Right Transfer Application T-11621

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11621. 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 Central Oregonian 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 [Patrick.K.Starnes@wrdd.state.or.us](mailto:Patrick.K.Starnes@wrdd.state.or.us) if I may be of assistance.

Sincerely,

Kelly Starnes  
Transfer Specialist  
Transfer and Conservation Section

cc: File T-11621  
Jeremy T. Giffin, District 11 Watermaster (via e-mail)  
John A. Short, Agent for the applicant (via e-mail)  
Gary L. DeJarnatt, CWRE #033 (via e-mail)

encs

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11621, Crook County	)	PROPOSING APPROVAL FOR
	)	ADDITIONAL POINTS OF
	)	APPROPRIATION AND 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**

HIGH DESERT ESTATES  
HOMEOWNERS ASSOCIATION INC.  
4488 SE JERRY DR  
PRINEVILLE, OR 97754

**Applicant's Agent**

JOHN SHORT  
WATER RIGHT SERVICES, LLC  
P.O. BOX 1830  
BEND, OR 97709

**Findings of Fact**

1. On June 24, 2013, HIGH DESERT ESTATES HOMEOWNERS ASSOCIATION INC. filed an application to add four additional points of appropriation, to change the place of use, and to change the character of use under Certificate 85101. The Department assigned the application number T-11621.
2. Notice of the application for transfer was published on July 2, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 10, 2013, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11621 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 11, 2013, 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.

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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4. The right to be transferred is as follows:

**Certificate:** 85101 in the name of HIGH DESERT ESTATES HOMEOWNERS ASSOCIATION INC. (perfected under Permit G-12466)

**Use:** DOMESTIC USE INCLUDING LAWN AND GARDEN NOT TO EXCEED ONE-HALF ACRE FOR EACH OF 59 FAMILIES

**Priority Date:** FEBRUARY 28, 1992

**Rate:** 0.13 CUBIC FOOT PER SECOND

**Period of Use:** YEAR ROUND

**Source:** Well A within the CROOKED RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	16 E	WM	16	SE SW	Well Lot-52 - 49 FEET NORTH AND 2203 FEET EAST FROM THE SW CORNER OF SECTION 16

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q
15 S	16 E	WM	16	NE SW
15 S	16 E	WM	16	NW SW
15 S	16 E	WM	16	SW SW
15 S	16 E	WM	16	SE SW
15 S	16 E	WM	21	NE NW
15 S	16 E	WM	21	NW NW
15 S	16 E	WM	21	SW NW
15 S	16 E	WM	21	NW SW
15 S	16 E	WM	21	SW SW

5. Transfer Application T-11621 proposes to change the character of use to Quasi Municipal.

6. Transfer Application T-11621 proposes to add four additional points of appropriation approximately 0.75 to 1.0 mile from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Well Name/ID	Latitude-Longitude Coordinates
15 S	16 E	WM	21	SW SW	Well Lot 163/L-32000	Lat 44.24834 N, Long -120.82326 W
15 S	16 E	WM	21	SW SE	Well Lot 139W/L-94625	Lat 44.24746 N, Long -120.81435 W
15 S	16 E	WM	21	SW SE	Well Lot 139E/L-101170	Lat 44.24733 N, Long -120.81381W
15 S	16 E	WM	21	SW SE	Well Lot 135/L-01460	Lat 44.25000 N, Long -120.81534W

7. Transfer Application T-11621 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q
15 S	16 E	WM	16	NE SW
15 S	16 E	WM	16	NW SW
15 S	16 E	WM	16	SW SW
15 S	16 E	WM	16	SE SW
15 S	16 E	WM	21	NW NE
15 S	16 E	WM	21	SW NE
15 S	16 E	WM	21	NE NW
15 S	16 E	WM	21	NW NW
15 S	16 E	WM	21	SW NW
15 S	16 E	WM	21	SE NW

Twp	Rng	Mer	Sec	Q-Q
15 S	16 E	WM	21	NE SW
15 S	16 E	WM	21	NW SW
15 S	16 E	WM	21	SW SW
15 S	16 E	WM	21	SE SW
15 S	16 E	WM	21	NW SE
15 S	16 E	WM	21	SW SE

**Transfer Review Criteria (OAR 690-380-4010)**

8. Certificate 85101 was issued 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.
9. 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-11621.
10. The annual volume of water allowed under Certificate 85101 was not specified on the certificate, and an estimated duty was not included in the transfer application. However, to ensure the right is not enlarged through the change in character of use, it is important to estimate the volume of water that could have been beneficially used for domestic use of 59 households.
11. The best available information about combined indoor and outdoor residential water use (including figures from the City of Gresham) indicates the amount would be approximately 184 gallons per day per person. According to *Who's Home—A Look at Households and Housing in Oregon*, by Risa Proehl of the Population Research Center at Portland State University, the average Oregon household size in 2000 (when this water right was perfected) was 2.51 persons.
12. Based on the above findings, the Department has estimated an annual duty based on a total domestic use of 184 gallons per day and an average of 2.51 persons in a household. This results in an annual duty of 30.52 acre-feet (AF) per year for 59 households.
13. The proposed change, if conditioned to limit annual use to 30.52 AF, would not result in enlargement of the right.
14. The proposed change, as conditioned, would not result in injury to other water rights.
15. All other application requirements are met.

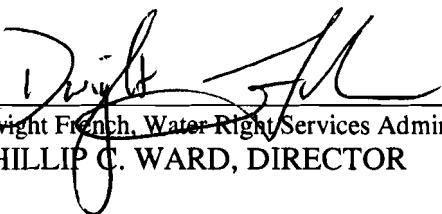
**Determination and Proposed Action**

The additional points of appropriation and change in place of use and change in character of use proposed in Transfer Application T-11621 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-11621 is approved, the final order will include the following:*

- 1. The additional points of appropriation and change in place of use and character of use proposed in Transfer Application T-11621 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 85101 and any related decree.*
- 3. Water right certificate 85101 is cancelled.*
- 4. The quantity of water diverted at the additional points of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
- 5. Quasi-municipal water use shall be limited to 0.13 cfs year-round and a maximum annual volume of 30.52 AF.*
- 6. 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).*
- 7. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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.*
- 9. After satisfactory proof of beneficial use is received, a new certificate confirming the right as transferred will be issued.*

Dated at Salem, Oregon this 11 day of October, 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 reach Kelly Starnes at 503-986-0886 or [Patrick.K.Starnes@wr.d.state.or.us](mailto:Patrick.K.Starnes@wr.d.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.*