



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

January 10, 2014

VIA E-MAIL

MISSOURI RIDGE FARM LLC
38111 S NOWLENS BRIDGE RD
MOLALLA, OR 97038

SUBJECT: Water Right Transfer Application T-11635

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11635. 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 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 Tracy.L.Fox@wrд.state.or.us or 503 986-0827 if I may be of assistance.

Sincerely,

Ms. Tracy Fox
Transfer Specialist
Transfer and Conservation Section

cc: T-11635
Mike L. McCord, District 16 Watermaster (*via e-mail*)
Jeanne Boatwright, CWRE and Agent for the applicant (*via e-mail*)
East Valley Water District

enclosure

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11635, Clackamas 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.

Applicant

MISSOURI RIDGE FARM LLC
38111 S NOWLENS BRIDGE RD
MOLALLA, OR 97038

Findings of Fact

1. On July 9, 2013, Missouri Ridge Farm LLC filed an application to change the place of use under Certificate 41394. The Department assigned the application number T-11635.
2. Notice of the application for transfer was published on July 16, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 16, 2013, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11635 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 20, 2014, 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.
4. The portion of the right to be transferred is as follows:

Certificate:	41394 in the name of FRED KASER (perfected under Permit S-28844)
Use:	IRRIGATION of 5.9 ACRES
Priority Date:	MAY 16, 1963
Rate:	0.06 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent

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.

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.

Source: BUTTE CREEK, tributary of the PUDDING RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	1 E	WM	16	SE NE	39	1620 FEET SOUTH AND 1240 FEET WEST FROM THE NE CORNER OF WHITLOCK DLC 39

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 E	WM	15	NW NW	39	2.1
6 S	1 E	WM	16	NE NE	39	3.3
6 S	1 E	WM	16	NW NE	39	0.5

- Transfer Application T-11635 proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	GLot	Acres
6 S	1 E	WM	16	NE NW	39		4.2
6 S	1 E	WM	16	NE NW		1	1.7

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

- 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.
- 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-11635.
- The proposed changes would not result in enlargement of the right.
- The proposed changes would not result in injury to other water rights.

Determination and Proposed Action

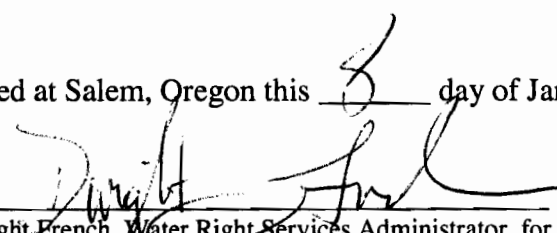
The change in place of use proposed in Transfer Application T-11635 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-11635 is approved, the final order will include the following:

- The change in place of use proposed in Transfer Application T-11635 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 41394 and any related decree.*
3. *Water Right Certificate 41394 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, 2015**. 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 3 day of January 2014.


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

This Preliminary Determination was prepared by Tracy Fox. If you have questions about the information in this document, you may reach me at 503 986-0827 or Tracy.L.Fox@ wrd.state.or.us.

Protests should be addressed to the attention of Water Rights Division, Water Resources Department, 725 Summer St NE Suite A, Salem, OR 97301-1266.