



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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January 29, 2014

VIA E-MAIL

PHILIP & MARILYN HANKINS
1675 MAKINSTER RD
TILLAMOOK, OR 97141

SUBJECT: Water Right Transfer Application T-11533

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11533. 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 Tillamook Headlight Herald 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 if I may be of assistance.

Sincerely,

Sarah Henderson
Transfer Specialist
Transfer and Conservation Section

cc: T-11533
Greg Beaman, District 1 Watermaster (*via e-mail*)
Terry Jones, Bayside Surveying, Agent for the applicant (*via e-mail*)

encs

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	9 W	WM	20	NE SE	16.00

5. Certificate 2458 does not describe the location of the point of diversion, however information is available from the survey map and Watermaster, indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	9 W	WM	21	SW SE	POD NO. 1 – NORTH 320 FEET AND EAST 440 FEET FROM THE S ¼ CORNER OF SECTION 21

6. Transfer Application T-11533 proposes to move the authorized point of diversion approximately 4148 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	9 W	WM	20	NE SE	POD NO. 2 - SOUTH 1300 FEET AND WEST 1070 FEET FROM THE E 1/4 CORNER OF SECTION 20

7. Transfer Application T-11533 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	9 W	WM	20	NE SE	15.50
2 S	9 W	WM	20	SE SE	0.50

8. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

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

9. Evidence was submitted with the application indicating that water has been used within the last five years according to the terms and conditions of the right.
10. A diversion structure and ditch 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-11533.
11. The proposed changes would not result in enlargement of the right.
12. The proposed changes would not result in injury to other water rights

Determination and Proposed Action

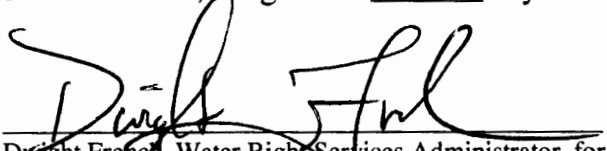
The change in point of diversion and change in place of use proposed in Transfer Application T-11533 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-11533 is approved, the final order will include the following:

- 1. The change in point of diversion and change in place of use proposed in Transfer Application T-11533 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 2458 and any related decree.*
- 3. Water right certificate 2458 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 4. The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.*
- 5. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.*
- 6. The former place of use of the transferred right shall no longer receive water under the right.*
- 7. 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 changes and full beneficial use of the water.*
- 8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 29 day of January, 2014.


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

This Preliminary Determination was prepared by Sarah Henderson. If you have questions about the information in this document, you may reach me at 503-986-0890 or Sarah.A.Henderson@ wrd.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.