



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

February 24, 2014

AARON AND REBECCA BORROR
PO BOX 38
FORT ROCK, OR 97735

SUBJECT: Water Right Transfer Application T-11655

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11655. 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 503-986-0890 or Sarah.A.Henderson@wrdd.state.or.us if I may be of assistance.

Sincerely,

Sarah Henderson
Transfer Specialist
Transfer and Conservation Section

cc: T-11655
Brian Mayer, District 12 Watermaster (*via e-mail*)
John A. Short, Agent for the applicant (*via e-mail*)
Gary DeJarnatt, CWRE # (*via e-mail*)

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

In the Matter of Transfer Application) **PRELIMINARY DETERMINATION**
T-11655, Lake County) **PROPOSING APPROVAL OF A**
) **CHANGE IN PLACE 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

AARON AND REBECCA BORROR
PO BOX 38
FORT ROCK, OR 97735

Findings of Fact

1. On August 26, 2013, Aaron and Rebecca Borrer filed an application to change the place of use under Certificate 87225. The Department assigned the application number T-11655.
2. Notice of the application for transfer was published on September 3, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 23, 2014, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11655 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of February 24, 2014, for the applicants to respond.
4. On January 23, 2014, John Short, agent for Aaron and Rebecca Borrer, requested that the date the full beneficial use of the water shall be made by, be extended to October 1, 2018.
5. On February 5, 2014, the applicants 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.

6. The portion of the right to be transferred is as follows:

Certificate: 87225 in the name of CHARLES NOFZIGER (perfected under Permit G-10099)
Use: IRRIGATION of 60.08 ACRES

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.

Priority Date: APRIL 27, 1983

Rate: 0.75 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: A WELL within the CHRISTMAS VALLEY BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	16 E	WM	6	NW SE	2510 FEET NORTH AND 1820 FEET WEST FROM THE SE CORNER OF SECTION 6

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	16 E	WM	6	NE SW		4.80
26 S	16 E	WM	6	NW SW	13	3.40
26 S	16 E	WM	6	SW SW	14	7.88
26 S	16 E	WM	6	SE SW		33.70
26 S	16 E	WM	6	NW SE		4.85
26 S	16 E	WM	6	SW SE		5.45
Total						60.08

7. Transfer Application T-11655 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	16 E	WM	6	SW NE	3.30
26 S	16 E	WM	6	SE NE	18.60
26 S	16 E	WM	6	NE SE	28.48
26 S	16 E	WM	6	NW SE	9.70
Total					60.08

Transfer Review Criteria (OAR 690-380-4010)

8. 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.
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-11655.
10. The proposed change would not result in enlargement of the right.

11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

Determination and Proposed Action

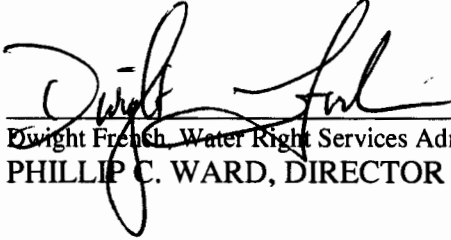
The change in place of use proposed in Transfer Application T-11655 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11655 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-11655 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 87225 and any related decree.*
3. *Water right certificate 87225 is cancelled. A new certificate will be issued describing those portions of the right not affected by this transfer.*
4. *Water use measurement conditions:*
 - a. *Before water use may begin under this order, the water user shall install a instantaneous totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each 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.*
5. *The former place of use of the transferred right shall no longer receive water under the right.*
6. *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 change and full beneficial use of the water.*

7. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 24 day of February, 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 Water Right Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.