



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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March 18, 2014

McNULTY WATER
PEOPLE'S UTILITY DISTRICT
ANDY TINKESS, GENERAL MANAGER
PO BOX 260
ST. HELENS, OR 97051

SUBJECT: Water Right Transfer Application T-11498

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11498. 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 503-986-0886 or Patrick.K.Starnes@wrdd.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst
Transfer and Conservation Section

cc: Transfer Application file T-11498
Jake Constans, District 18 Watermaster (via e-mail)
John E. Borden, CWRE/Agent for the applicant (via e-mail)

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4. The right to be transferred is as follows:

Certificate: 65072 in the name of McNULTY WATER ASSOCIATION (perfected under Permit G-8026)
Use: QUASI-MUNICIPAL
Priority Date: NOVEMBER 20, 1968
Rate: 0.6 CUBIC FOOT PER SECOND
Source: WELL NO. 1 (BLAHA WELL NO. 1)(COLU 3480) within the COLUMBIA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distance
4 N	2 W	WM	12	SW SE	WELL 1 (BLAHA WELL NO. 1) (COLU 3480) - N79°W 2610 FEET FROM THE SE CORNER OF SECTION 12

Authorized Place of Use:

QUASI-MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
4 N	1 W	WM	7	NE NE
4 N	1 W	WM	7	NW NE
4 N	1 W	WM	7	SW NE
4 N	1 W	WM	7	SE NE
4 N	1 W	WM	7	NE NW
4 N	1 W	WM	7	NW NW
4 N	1 W	WM	7	SW NW
4 N	1 W	WM	7	SE NW
4 N	1 W	WM	7	NE SW
4 N	1 W	WM	7	NW SW
4 N	1 W	WM	7	SW SW
4 N	1 W	WM	7	SE SW
4 N	1 W	WM	7	NE SE
4 N	1 W	WM	7	NW SE
4 N	1 W	WM	7	SW SE
4 N	1 W	WM	7	SE SE
4 N	1 W	WM	8	NE NE
4 N	1 W	WM	8	NW NE
4 N	1 W	WM	8	SW NE
4 N	1 W	WM	8	SE NE
4 N	1 W	WM	8	NW NW
4 N	1 W	WM	8	SW NW
4 N	1 W	WM	8	SE NW
4 N	1 W	WM	8	NE SW
4 N	1 W	WM	8	NW SW
4 N	1 W	WM	8	SW SW
4 N	1 W	WM	8	SE SW
4 N	1 W	WM	8	NE SE
4 N	1 W	WM	8	SW SE
4 N	1 W	WM	8	SE SE
4 N	1 W	WM	17	NE NW
4 N	1 W	WM	17	NW NW
4 N	1 W	WM	17	SW NW
4 N	1 W	WM	17	SE NW
4 N	1 W	WM	18	NE NE

QUASI-MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
4 N	1 W	WM	18	NW NE
4 N	1 W	WM	18	SW NE
4 N	1 W	WM	18	SE NE
4 N	1 W	WM	18	NE NW
4 N	1 W	WM	18	NW NW
4 N	2 W	WM	1	NE NE
4 N	2 W	WM	1	NW NE
4 N	2 W	WM	1	SW NE
4 N	2 W	WM	1	SE NE
4 N	2 W	WM	1	NE NW
4 N	2 W	WM	1	NW NW
4 N	2 W	WM	1	SW NW
4 N	2 W	WM	1	SE NW
4 N	2 W	WM	1	NE SW
4 N	2 W	WM	1	NW SW
4 N	2 W	WM	1	SW SW
4 N	2 W	WM	1	SE SW
4 N	2 W	WM	1	NE SE
4 N	2 W	WM	1	NW SE
4 N	2 W	WM	1	SW SE
4 N	2 W	WM	1	SE SE
4 N	2 W	WM	2	NE NE
4 N	2 W	WM	2	SE NE
4 N	2 W	WM	2	NE SE
4 N	2 W	WM	12	NE NE
4 N	2 W	WM	12	NW NE
4 N	2 W	WM	12	SW NE
4 N	2 W	WM	12	SE NE
4 N	2 W	WM	12	NE SE
4 N	2 W	WM	12	SE SE
4 N	2 W	WM	13	NE NE
4 N	2 W	WM	13	NW NE
4 N	2 W	WM	13	NE NW
5 N	1 W	WM	31	NW NW
5 N	1 W	WM	31	SW NW
5 N	1 W	WM	31	NW SW
5 N	1 W	WM	31	SW SW
5 N	2 W	WM	6	NE NE
5 N	2 W	WM	6	NW NE
5 N	2 W	WM	6	SW NE
5 N	2 W	WM	6	SE NE
5 N	2 W	WM	6	NE NW
5 N	2 W	WM	6	NW NW
5 N	2 W	WM	6	SW NW
5 N	2 W	WM	6	SE NW
5 N	2 W	WM	6	NE SW
5 N	2 W	WM	6	NW SW
5 N	2 W	WM	6	SW SW
5 N	2 W	WM	6	SW SE
5 N	2 W	WM	6	SE SE
5 N	2 W	WM	25	NW SW

QUASI-MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
5 N	2 W	WM	25	SW SW
5 N	2 W	WM	26	NE SE
5 N	2 W	WM	26	SE SE
5 N	2 W	WM	35	NE NE
5 N	2 W	WM	35	SE NE
5 N	2 W	WM	35	NE SE
5 N	2 W	WM	35	SE SE
5 N	2 W	WM	36	NE NE
5 N	2 W	WM	36	SE NE
5 N	2 W	WM	36	NW NW
5 N	2 W	WM	36	SW NW
5 N	2 W	WM	36	NW SW
5 N	2 W	WM	36	SW SW
5 N	2 W	WM	36	SE SW
5 N	2 W	WM	36	NE SE
5 N	2 W	WM	36	SW SE
5 N	2 W	WM	36	SE SE

5. Transfer Application T-11498 proposes an additional point of appropriation approximately 75 feet from the authorized point of appropriation to Blaha Well No. 2 located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	2 W	WM	12	SW SE	BLAHA WELL NO. 2 (COLU 53430) - 616.14 FEET NORTH AND 158.96 FEET EAST FROM THE S¼ CORNER OF SECTION 12

Transfer Review Criteria (OAR 690-380-4010)

6. Water has been used within the last five years prior to the submittal of Transfer Application T-11498 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.
7. A well, pump, and municipal distribution 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-11498.
8. Pursuant to OAR 690-380-2110(2), the Department has made a finding, based on the information provided, that the proposed additional point of appropriation (COLU 53430) develops the same aquifer as that of the original authorized well (COLU 3480).
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

Determination and Proposed Action

The additional point of appropriation proposed in Transfer Application T-11498 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 transfer application will be approved.

If Transfer Application T-11498 is approved, the final order will include the following:

1. *The additional point of appropriation proposed in Transfer Application T-11498 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 65072 and any related decree.*
3. *Water right certificate 65072 is cancelled.*
4. *The quantity of water diverted at the new additional point 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. *Water shall be acquired from the same aquifer as 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 each point of appropriation (new and existing).*
 - b. *The water user shall maintain the meter(s) or measuring device(s) in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter(s) or measuring device(s); provided however, where the meter(s) or measuring device(s) are located within a private structure, the Watermaster shall request access upon reasonable notice.*
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 change 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 14 day of March, 2014.



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

This Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or Ken.D.Dowden@ wrd.state.or.us

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