



# 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  
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April 18, 2014

**Applicant**

Raymond S. Belnap  
4137 Kochsmeir Rd  
Vale, Or 97918

**Agent**

Nancy Rorick Consulting  
645 L. Loop  
Baker City, OR 97814  
e-mail: nrorick@yahoo.com

**SUBJECT:** Water Right Transfer Application T-11518

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11518. 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, 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@wrд.state.or.us](mailto:Patrick.K.Starnes@wrд.state.or.us) if I may be of assistance.

Sincerely,

Kelly Starnes  
Transfer analyst  
Transfer and Conservation Section

cc: Transfer Application file T-11518  
Ronald K. Jacobs, District 9 Watermaster (*via e-mail*)  
Nancy Rorick, Agent for the applicant (*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-11518, Malheur County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACE OF USE AND A
	)	RE-DESCRIPTION OF A WATER
	)	RIGHT

**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.

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**Findings of Fact**

1. On January 2, 2013, Raymond S. Belnap filed an application to change the place of use under Certificate 41126. The Department assigned the application number T-11518.
2. Notice of the application for transfer was published on January 15, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 25, 2013 the department sent a deficiency letter to the applicant and agent identifying place of use discrepancies.
4. On July 25, 2013, the agent submitted a revised transfer application and map.
5. On August 12, 2013, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11518 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 12, 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.

6. On August 23, 2013, the ownership report revealed that a portion of Certificate 41126 may be located on the adjacent owner's property in Tax Lot 400. The applicant and agent were notified of the finding.
7. On June 18, 2013, the Certified Water Right Examiner provided historic aerial photographs (1969 & 1979) and supporting evidence in their request for a re-description to the place of use in Certificate 41126.
8. On February 11, 2014 the agent submitted a revised application and map re-describing the place of use identified in the supporting documentation.
9. The right to be transferred is as follows:

**Certificate:** 41126 in the names of ROY BEAL & ILEAN HOOD (perfected under Permit G-3281)  
**Use:** IRRIGATION OF 8.8 ACRES  
**Priority Date:** MAY 4, 1966  
**Rate:** 0.11 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.  
**Source:** A WELL within the WILLOW CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	45 E	WM	17	NW NE	160 FEET SOUTH AND 780 FEET WEST FROM THE NE CORNER OF THE NW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> OF SECTION 17

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
18 S	45 E	WM	17	NW NE	27.0
18 S	45 E	WM	17	SW NE	4.2
18 S	45 E	WM	17	NE NW	2.0
Total Acres:					33.2

10. Certificate 41126 describes the authorized place of use as 33.2 acres within Section 17, Township 18, South, Range 45, East, Willamette Meridian, Malheur County, Oregon.
11. On June 18, 2013, the Certified Water Right Examiner for Transfer Application T-11518 provided historic aerial photographs (1969 & 1979) to the department that revealed the shape of the field boundaries which coincided with the final proof survey notes dated May 22, 1973.

12. The Department found that PLSS lines on current GIS imagery were different than that of the final proof report. The 1969 and 1979 aerial photographs show landmarks on the west field boundary. There is a house and driveway that was in existence prior to the water right issuance. The other landmark on the east field boundary identifies a ditch that runs north and south.
13. The 1969 and 1979 photographs were overlaid with the final proof survey map using GIS technology. The location of the field according to the final proof survey map would have placed the west side of the field on the house and driveway, which is not practical. The total acre figures on the field notes correlated with that of the overlay but not within each quarter-quarter. Therefore the conclusion was made that the combination of the placement of the field on the final proof map with that of the correct PLSS lines does not describe the place of use accurately.
14. The following table lists the place of use as described in existing Certificate 41126 and a proposed re-description based on the above findings:

Twp	Rng	Sec	Original Description of Place of Use		Proposed Re-Description of Place of Use		
			Q-Q	Acres	Q-Q	Acres	Current Tax Lot
18 S	45 E	17	NW NE	27.0	NW NE	27.8	500
18 S	45 E	17	SW NE	4.2	SW NE	4.3	500
18 S	45 E	17	NE NW	2.0	NE NW	1.1	500
Total Acres:				33.2	Total Acres:	33.2	

15. The authorized place of use in Transfer Application T-11518 is located as follows.

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
18 S	45 E	WM	17	NW NE	500	7.0
18 S	45 E	WM	17	SW NE	500	0.7
18 S	45 E	WM	17	NE NW	500	1.1
Total Acres:						8.8

16. Transfer Application T-11518 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
18 S	45 E	WM	17	NW NE	500	7.7
18 S	45 E	WM	17	SW NE	500	0.6
18 S	45 E	WM	17	NE NW	500	0.5
Total Acres:						8.8

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

17. 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.
18. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-11518.
19. The proposed change would not result in enlargement of the right.
20. The proposed change would not result in injury to other water rights.
21. All other application requirements are met.

**Determination and Proposed Action**

The change in place of use proposed in Transfer Application T-11518 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-11518 is approved, the final order will include the following:*

1. *The change in place of use proposed in Transfer Application T-11518 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 41126 and any related decree.*
3. *Water Right Certificate 41126 is cancelled. A new certificate will be issued describing that portion 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 totalizing flow meter, or, with prior approval of the Director, another suitable measuring device at the 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, 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.*

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

Dated at Salem, Oregon this 18 day of April 2014.



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

This Preliminary Determination was prepared by Carrie Matthews. If you have questions about the information in this document, you may reach me at 541-523-8224 x 223 or [Carrie.R.Matthews@wrdd.state.or.us](mailto:Carrie.R.Matthews@wrdd.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.