



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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May 8, 2014

VIA E-MAIL : davidlommel@hotmail.com

DAVID AND SANDRA LOMMEL
4338 FISH HATCHERY RD
GRANTS PASS, OR 97527

SUBJECT: Water Right Transfer Application T-11656

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11656. 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 Tracy.L.Fox@ wrd.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-11656

Kathy A. Smith, District 14 Watermaster (*via e-mail: kathy.a.smith@ wrd.state.or.us*)

Gary Wicks

enclosures

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

Certificate: 7471 in the name of NETTIE DOERNER (perfected under Permit S-7821)
Use: IRRIGATION OF 1.4 ACRES
Priority Date: MARCH 10, 1927
Rate: 0.02 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 in case of rotation.
Source: SLATE CREEK, a tributary of APPLGATE RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	6 W	WM	6	SW NW	1.4

6. Certificate 7471 does not describe the location of the point of diversion, however information is available from the transfer application and Department records indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
37 S	6 W	WM	6	SW NW	250 FEET EAST AND 230 FEET NORTH OF THE WEST ¼ CORNER OF SECTION 6

7. Transfer Application T-11656 proposes an additional point of diversion less than a 1/4 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
37 S	6 W	WM	6	SW NW	505 FEET EAST AND 65 FEET SOUTH OF THE NORTH 1/16 CORNER ON THE WEST LINE OF SECTION 6

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. 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.
- 10. 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-11656.
- 11. The proposed change would not result in enlargement of the right.

12. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The additional point of diversion proposed in Transfer Application T-11656 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-11656 is approved, the final order will include the following:

1. *The additional point of diversion proposed in Transfer Application T-11656 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 7471 and any related decree.*
3. *Water right certificate 7471 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 additional point of diversion together with that diverted at the original point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.*
5. *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 new point of diversion.*
 - 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.*
6. *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.
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 7 day of May, 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 Water Rights Services Division, Oregon Water Resources Department, 725 Summer Street, Suite A, Salem, OR 97301-1266.