



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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May 8, 2014

PHILIP C. & DEBRA M. LIND, TRUSTEES
1686 PARK VIEW LANE
CHICO, CA 95926

SUBJECT: Water Right Transfer Application T-11698

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11698. 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 Medford Mail Tribune 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 Tracy.L.Fox@wrp.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-11698
Travis Kelly, District 13 Watermaster (*via e-mail*)
K. Clay Jordan, CWRE #431 (*via e-mail*)

enclosure

Priority Date: 1866
Rate: 0.57 CUBIC FOOT PER SECOND
Source: APPLGATE RIVER, tributary to the ROGUE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
38 S	3 W	WM	30	SE SW	2510 FEET SOUTH AND 3370 FEET WEST FROM THE NE CORNER OF GEORGE LONG DLC 39

Authorized Place of Use:

IRRIGATION, LIVESTOCK AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
38 S	4 W	WM	26	NW NE	5.6
38 S	4 W	WM	26	NE NE	17.0

6. Transfer Application T-11698 proposes additional points of diversion approximately two miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
38 S	4 W	WM	26	SE NE	POD 2: 1395 FEET SOUTH AND 1565 FEET EAST FROM THE N1/4 CORNER OF SECTION 26
38 S	4 W	WM	26	SE NE	POD 3: 1390 FEET SOUTH AND 1450 FEET EAST FROM THE N1/4 CORNER OF SECTION 26

7. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

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 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-11698.
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.

Determination and Proposed Action

The additional points of diversion proposed in Transfer Application T-11698 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-11698 is approved, the final order will include the following:

- 1. The additional points of diversion proposed in Transfer Application T-11698 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 56493 and any related decree.*
- 3. Water right Certificate 56493 is modified and will be canceled upon approval or denial of T-11620. A new certificate will be issued describing that portion of the right not affected by transfer T-11620 and transfer T-11698.*
- 4. The quantity of water diverted at the additional points of diversion together with that diverted at the original points 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 weir or flume at the existing diversion and 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 meters or measuring devices in good working order.*
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
- 6. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device meets the state's criteria. The water user shall operate and maintain the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*
- 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.