



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

May 15, 2014

LIDLAW WATER DISTRICT
DALE PEER, DISTRICT MANAGER
64711 WOOD AVE
BEND, OR 97701

SUBJECT: Water Right Transfer Application T-11731

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11731. 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 Bend Bulletin 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 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-11731
Jeremy T. Giffin, District 11 Watermaster (*via e-mail*)
Dirk Duryee, Agent for the applicant (*via e-mail*)
William Tye, CWRE #191 (*via e-mail*)

encs

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11731, Deschutes County)	PROPOSING APPROVAL OF
)	ADDITIONAL POINTS OF
)	APPROPRIATION

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

LIDLAW WATER DISTRICT
64711 WOOD AVE
BEND, OR 97701

Findings of Fact

1. On January 27, 2014, LAIDLAW WATER DISTRICT filed an application for additional points of appropriation under Certificate 80614. The Department assigned the application number T-11731.
2. Notice of the application for transfer was published on February 4, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 18, 2014, the Department contacted Tye Engineering & Surveying, Inc. by email to notify the applicant's agent, that the measured location of the wells and the description of the place of use are not accurate. On March 18, 2014, the applicant's agent emailed the amended application resolving the deficiencies.
4. On March 27, 2014, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11731 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 28, 2014, 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.

5. The right to be transferred is as follows:

Certificate: 80614 in the name of LAIDLAW WATER DISTRICT (perfected under Permit G-9375)
Use: QUASI-MUNICIPAL USE
Priority Date: MAY 6, 1981
Rate: 55.0 GALLONS PER MINUTE
Source: SCHOOL WELL within the DESCHUTES BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	12 E	WM	31	NW NE	664 FEET SOUTH AND 531 FEET EAST FROM THE N1/4 CORNER OF SECTION 31

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q
12 S	12 E	WM	29	SW NW
12 S	12 E	WM	29	SE NW
12 S	12 E	WM	29	NE SW
12 S	12 E	WM	29	SE SW
16 S	12 E	WM	29	NW SW
16 S	12 E	WM	29	SW SW
16 S	12 E	WM	30	NE SE
16 S	12 E	WM	30	SW SE
16 S	12 E	WM	30	SE SE
16 S	12 E	WM	31	NE NE
16 S	12 E	WM	31	NW NE
16 S	12 E	WM	31	SW NE
16 S	12 E	WM	31	SE NE
16 S	12 E	WM	31	NE NW
16 S	12 E	WM	31	NE SE
16 S	12 E	WM	31	NW SE
16 S	12 E	WM	31	SW SE
16 S	12 E	WM	31	SE SE
16 S	12 E	WM	32	NW NW

6. Transfer Application T-11731 proposes additional points of appropriation approximately 2640 feet for Ruesse Well and approximately 800 feet for the Reservoir Well from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	12 E	WM	29	NW SW	RUESSE WELL: 108 FEET SOUTH AND 365 FEET EAST FROM THE W1/4 CORNER OF SECTION 29
16 S	12 E	WM	31	NE SE	RESERVOIR WELL: 1217 FEET SOUTH AND 2220 FEET EAST FROM THE NW CORNER OF SECTION 31

Transfer Review Criteria (OAR 690-380-4010)

7. 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.
8. A pump, pipeline, and delivery 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-11731.
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 points of appropriation proposed in Transfer Application T-11731 appear 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-11731 is approved, the final order will include the following:

1. *The additional points of appropriation proposed in Transfer Application T-11731 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 80614 and any related decree.*
3. *Water right certificate 80614 is cancelled.*
4. *The quantity of water diverted at the additional points 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 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 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. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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 changes 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 May, 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@wrд.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.