



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

September 8, 2014

CORP. OF THE PRESIDING BISHOP OF
THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS
C/O FARMLAND RESERVE, INC.
79 S MAIN ST STE 1000
SALT LAKE CITY, UT 84111-1929

SUBJECT: Water Right Transfer Application T-11761

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11761. 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 La Grande's The Observer 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 503 986-0827 or Tracy.L.Fox@ wrd.state.or.us if I may be of assistance.

Sincerely,

Ms. Tracy Fox
Transfer Specialist
Transfer and Conservation Section

cc: T-11761
Shad L. Hattan, District 6 Watermaster (*via e-mail*)
D. George Chadwick, Agent for the applicant (*via e-mail*)
George Blackman, CWRE #21 (*via e-mail*)

enclosure

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11761, Union County)	PROPOSING APPROVAL OF
)	ADDITIONAL POINTS OF
)	APPROPRIATION AND PLACE OF
)	USE CHANGE

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

CORPORATION OF PRESIDING BISHOP
OF THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS
C/O FARMLAND RESERVE, INC.
79 S MAIN ST, STE 1000
SALT LAKE CITY, UT 84111-1929

Findings of Fact

1. On March 14, 2014, THE CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS filed an application for additional points of appropriation and to change the place of use under Certificate 35175. The Department assigned the application number T-11761.
2. Notice of the application for transfer was published on March 25, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On July 7, 2014, the Department contacted the applicant's agent by telephone to notify the applicant's agent of the deficiencies in the application. On July 9, 2014, the Department received an amended map and application page resolving the deficiencies.
4. On August 1, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11761 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 2, 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 portion of the right to be transferred is as follows:

Certificate: 35175 in the name of UNION STAKE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, BY L. E. FULLMER, BISHOP (perfected under Permit G-3200)

Use: IRRIGATION of 3.8 ACRES

Priority Date: MARCH 9, 1966

Rate: 0.05 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 ONE-EIGHTIETH of one cubic foot per second per acre, 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 BYRON SLOUGH BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	38 E	WM	9	SE NE	1400 FEET SOUTH AND 350 FEET WEST FROM THE NE CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	38 E	WM	10	SW NW	3.8

6. Transfer Application T-11761 proposes additional points of appropriation approximately 1.6 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	38 E	WM	3	SE SW	WELL 2: 351 FEET NORTH AND 318 FEET WEST FROM THE SOUTH 1/4 CORNER OF SECTION 3
3 S	38 E	WM	3	SE SW	WELL 3: 391 FEET NORTH AND 309 FEET WEST FROM THE SOUTH 1/4 CORNER OF SECTION 3
3 S	38 E	WM	3	SE SW	WELL 4: 391 FEET NORTH AND 319 FEET WEST FROM THE SOUTH 1/4 CORNER OF SECTION 3

7. Transfer Application T-11761 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	38 E	WM	3	SE SW	3.8

Transfer Review Criteria (OAR 690-380-4010)

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 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-11761.
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.
12. All other application requirements are met.

Determination and Proposed Action


The additional points of appropriation and change in place of use proposed in Transfer Application T-11761 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-11761 is approved, the final order will include the following:

1. *The additional points of appropriation and change in place of use proposed in Transfer Application T-11761 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 35175 and any related decree.*
3. *Water Right Certificate 35175 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 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 shall be acquired from the same aquifer (water source) as the original point of appropriation.*
6. *The former place of use of the transferred right shall no longer receive water under the right.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2016**. 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 5 day of September, 2014.



Dwight French
Water Right Services Administrator, for
Director
Oregon Water Resources Department

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@wr.d.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.