



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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November 30, 2014

PATRICIA WATTERSON
MARY BUDDENHAGEN
19145 UPPER COW CREEK RD
AZALEA, OR 97410

SUBJECT: Water Right Transfer Application T-11787

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11787. 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 Roseburg News-Review 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@ wrd.state.or.us if I may be of assistance.

Sincerely,

Sarah Henderson
Transfer Specialist
Transfer and Conservation Section

cc: T-11787
Dave S. Williams, District 15 Watermaster (*via e-mail*)
Raymond Brown, CWRE #234 (*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-11787, Douglas County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN POINTS OF DIVERSION

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, 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.

Applicants

PATRICIA WATTERSON
MARY BUDDENHAGEN
19145 UPPER COW CREEK RD
AZALEA, OR 97410

Findings of Fact

1. On April 11, 2014, PATRICIA WATTERSON AND MARY BUDDENHAGEN filed an application to change the points of diversion under Certificates 9633 and 47497. The Department assigned the application number T-11787.
2. Notice of the application for transfer was published on May 6, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On July 25 and September 10, 2014, the Department contacted the applicants and applicant's agent, by written correspondence to notify them of the deficiencies in the application. The deficiencies having to do with the points of diversion and place of use and the associated water rights involved in the application and on the map. On August 28 and September 25, 2014, the Department received the documents needed to resolve the deficiencies.
4. On September 26, 2014, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11787 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of October 26, 2014, for the applicants to respond. The applicants 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.
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5. The portion of the first right to be transferred is as follows:

Certificate: 9633 in the name of D. W. HANKS (confirmed by Cow Creek, Douglas County (F) Decree)
Use: IRRIGATION of 8.69 ACRES
Priority Date: OCTOBER 9, 1905
Rate: 0.12 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed the rate of one cubic foot of water per second of time for each 70 acres of land irrigated during the irrigation season.
Source: COW CREEK, tributary to SOUTH UMPQUA RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
32 S	3 W	WM	1	SW SW	7.59
32 S	3 W	WM	12	NW NW	1.10

6. Certificate 9633 does not describe the location of the point of diversion, however information is available from the applicant indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
32 S	3 W	WM	12	NW NE	270 FEET SOUTH AND 3250 FEET EAST FROM THE NW CORNER OF SECTION 12

7. Transfer Application T-11787 proposes to move the authorized point of diversion approximately 0.5 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
32 S	3 W	WM	12	NW NW	44 FEET SOUTH AND 637 FEET EAST FROM THE NW CORNER OF SECTION 12

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

Certificate: 47497 in the name of FRANK CORDER, MERRILL WILSON, KENT JUNE AND BRAD W. RAYMOND (perfected under Permit S-31417)
Use: IRRIGATION of 2.06 ACRES
Priority Date: MARCH 10, 1966
Rate: 0.03 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-SEVENTIETH 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 3.5 acre feet per acre for each acre irrigated during the irrigation season of each year.
Source: COW CREEK, tributary of SOUTH UMPQUA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
32 S	3 W	WM	12	NW NE	3	TRACT NO. 1: 270 FEET SOUTH AND 3250 FEET EAST FROM THE NW CORNER OF SECTION 12

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
32 S	3 W	WM	1	SW SW	2.06

9. Transfer Application T-11787 proposes to move the authorized point of diversion approximately 0.5 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
32 S	3 W	WM	12	NW NW	44 FEET SOUTH AND 637 FEET EAST FROM THE NW CORNER OF SECTION 12

10. 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)]

11. 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 rights are subject to forfeiture under ORS 540.610.
12. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-11787.
13. The proposed change would not result in enlargement of the rights.
14. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in points of diversion proposed in Transfer Application T-11787 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.

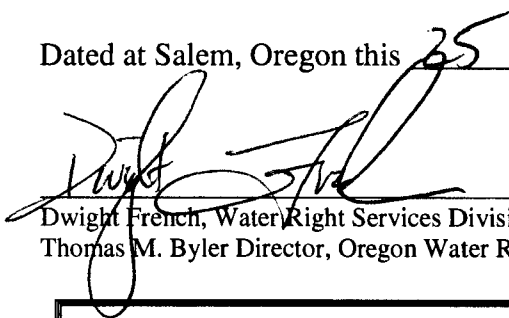
If Transfer Application T-11787 is approved, the final order will include the following:

1. *The change in points of diversion proposed in Transfer Application T-11787 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 Certificates 9633 and 47497 and any related decree.*

3. *Water right Certificates 9633 and 47497 are cancelled. New certificates will be issued describing that portion of the rights not affected by this transfer.*
4. *The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original points 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 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 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, 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 change and full beneficial use of the water.*
8. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 25 day of November, 2014.


Dwight French, Water Right Services Division Administrator, for
Thomas M. Byler Director, Oregon Water Resources Department

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@wrdd.state.or.us.

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