



# Oregon

John A. Kitzhaber, MD, Governor

## Water Resources Department

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725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
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December 30, 2014

VIA E-MAIL

PHIL KARTAL  
3881 2ND ST  
HUBBARD, OR 97032

SUBJECT: Water Right Transfer Application T-11852

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11852. 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, 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 [Lanaya.F.Blakely@ wrd.state.or.us](mailto:Lanaya.F.Blakely@ wrd.state.or.us) or (503) 986-0888, if I may be of assistance.

Sincerely,

Lanaya Blakely  
Transfer Specialist  
Transfer and Conservation Section

cc: T-11852  
Joel Plahn, District 16 Watermaster (*via e-mail*)  
James M. Schuette, Agent for the applicant (*via e-mail*)

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4. The right to be transferred is as follows:

**Certificate:** 89193 in the name of DIERINGER NURSERY (perfected under Permit G-13352)

**Use:** IRRIGATION AND AGRICULTURAL USE FOR NURSERY OPERATIONS ON 10 ACRES

**Priority Date:** APRIL 8, 1997

**Rate:** 0.25 CUBIC FOOT PER SECOND

**Limit/Duty:** The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of **containerized nursery plants**, the amount diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of **in ground nursery plants** the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre per year. The use of water for NURSERY OPERATIONS may be made at any time of the year that the use is beneficial. For the irrigation of **any other crop**, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.

**Period of Use:** March 1 through October 31 for irrigation use and year round for agricultural use

**Source:** A WELL within the BRANDY CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	1 W	WM	35	NE SW	64	615 FEET SOUTH AND 2490 FEET WEST FROM THE NE CORNER OF DLC 64

**Authorized Place of Use:**

NURSERY OPERATIONS						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	1 W	WM	35	SW NW	63	0.4
4 S	1 W	WM	35	SE NW	63	1.3
4 S	1 W	WM	35	NE SW	64	6.7
4 S	1 W	WM	35	NW SW	64	1.6

5. Transfer Application T-11852 proposes to move the authorized point of appropriation approximately 792 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	1 W	WM	35	NW SW	64	680 FEET SOUTH AND 3290 FEET WEST FROM THE NE CORNER OF DLC 64

***Transfer Review Criteria (OAR 690-380-4010)***

6. 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.
7. 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-11852.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.
10. All other application requirements are met.

**Determination and Proposed Action**


The change in point of appropriation proposed in Transfer Application T-11852 appears 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-11852 is approved, the final order will include the following:*

1. *The change in point of appropriation proposed in Transfer Application T-11852 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 89193 and any related decree.*
3. *Water right certificate 89193 is cancelled.*
4. *The quantity of water diverted at the new 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. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2017**. 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.*

7. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 24 day of December 2014.

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

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

This Preliminary Determination was prepared by Lanaya Blakely. If you have question about the information in this document, you may reach me at (503) 986-0888 or Lanaya.F.Blakely@ wrd.state.or.us.