



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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February 3, 2015

VIA E-MAIL

GEORGE R. AND KATHLYNN J. WHITE
556 MCDONOUGH RD
GOLD HILL, OR 97525

SUBJECT: Water Right Transfer Application T-11835

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11835. 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@wrд.state.or.us or (503) 986-0888, if I may be of assistance.

Sincerely,

Lanaya Blakely
Transfer Specialist
Transfer and Conservation Section

cc: T-11835
Travis Kelly, District 13 Watermaster (*via e-mail*)
William Edward Cronin, CWRE #78427

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11835, Jackson County	)	PROPOSING APPROVAL OF CHANGE
	)	IN PLACE OF USE AND PARTIAL
	)	CANCELLATION OF A WATER
	)	RIGHT

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. ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

GEORGE R. AND KATHLYNN J. WHITE
556 MCDONOUGH RD
GOLD HILL, OR 97525

Findings of Fact

1. On June 11, 2014, GEORGE R. AND KATHLYNN J. WHITE filed an application to change the place of use under Certificate 62476. The Department assigned the application number T-11835.
2. Notice of the application for transfer was published on June 17, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The applicant identified a portion of the right had been abandoned. On November 14, 2014, a letter was sent to the applicant requesting an affidavit certifying that a portion of the water right has been abandoned and requesting cancellation of a portion of the right.
4. On December 12, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11835 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 11, 2015, 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.
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5. The right to be transferred is as follows:

Certificate: 62476 in the name of KENNETH M. AND VIRGINIA R. WHITE
(perfected under Permit G-9132)
Use: IRRIGATION of 3.6 ACRES
Priority Date: SEPTEMBER 8, 1980
Rate: 0.047 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-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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL within the ROGUE RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
35 S	2 W	WM	29	SW NW	2930 FEET NORTH AND 1300 FEET EAST FROM SW CORNER, SECTION 29

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	2 W	WM	29	SW NW	3.6

6. Transfer Application T-11835 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	2 W	WM	29	SW NW	3.6

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 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-11835.
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.

Partial Cancellation of a Water Right

12. On November 28, 2014, an affidavit certifying that a portion of the water right has been abandoned and requesting cancellation of the right was received from George R. and Kathlynn J. White.

13. The right to be cancelled is as follows:

Certificate: 62476 in the name of KENNETH M. AND VIRGINIA R. WHITE
(perfected under Permit G-9132)

Use: IRRIGATION of 0.2 ACRE

Priority Date: SEPTEMBER 8, 1980

Rate: 0.0026 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-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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL in the ROGUE RIVER BASIN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
35 S	2 W	WM	29	SW NW	2930 FEET SOUTH AND 1300 FEET EAST FROM SW CORNER, SECTION 29

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	2 W	WM	29	SW NW	0.20

Determination and Proposed Action

The change in place of use proposed in Transfer Application T-11835 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the abandoned portion of the water right should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned portion of the water right will be cancelled.

If Transfer Application T-11835 is approved, the final order will include the following:

- 1. The change in place of use proposed in Transfer Application T-11835 is approved. The portion of the right that has been abandoned is cancelled.*
- 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 62476 and any related decree.*
- 3. Water right certificate 62476 is cancelled.*

4. *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 the existing point of appropriation.*
 - b. *The water user shall maintain the meter or measuring device(s) in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
5. *The former place of use of the transferred right shall no longer receive water under the right.*
6. *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.*
7. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 3 day of February 2015.



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@wrdd.state.or.us.