



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

February 6, 2015

VIA E-MAIL

ROGER L SHELEY
71111 RUHL ROAD
BURNS, OR 97720

SUBJECT: Water Right Transfer Application T-11867

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11867. 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 Burns Times Herald 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 503-986-0886 or Patrick.K.Starnes@wrdd.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst
Transfer and Conservation Section

cc: Transfer Application file T-11867
JR Johnson, District 10 Watermaster (*via e-mail*)
Scott Montgomery, All Points Engineering CWRE #2001 (*via e-mail*)

encs

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11867, Harney County	)	PROPOSING APPROVAL OF AN
	)	ADDITIONAL POINT 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

ROGER L. SHELEY
71111 RUHL RD
BURNS, OR 97720

Findings of Fact

1. On July 30, 2014, ROGER L. SHELEY filed an application for an additional point of diversion under Certificate 65786. The Department assigned the application number T-11867.
2. Notice of the application for transfer was published on August 5, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 22, 2015 the applicant requested to extend the completion date to October 1, 2021.
4. On January 22, 2015, the Department sent a copy of the Draft Preliminary Determination proposing to approve Transfer Application T-11867 to the applicant. The Preliminary Determination cover letter set forth a deadline of February 23, 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.
--

5. The right to be transferred is as follows:

Certificate: 65786 in the name of ROGER L. SHELEY (perfected under Permit G-10341)
Use: IRRIGATION OF 126.0 ACRES
Priority Date: JANUARY 20, 1984
Rate: 1.6 CUBIC FEET 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: WELL 3 within the SILVIES RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	32 E	WM	3	NW SE	1300 FEET SOUTH AND 30 FEET WEST FROM THE NW CORNER OF THE NE¼ SE¼ OF SECTION 3

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	32 E	WM	3	NE SE	31.2
23 S	32 E	WM	3	NW SE	32.0
23 S	32 E	WM	3	SW SE	32.0
23 S	32 E	WM	3	SE SE	30.8
Total					126.0

6. Transfer Application T-11867 proposes an additional point of appropriation approximately 1586 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	32 E	WM	3	SE SE	470 FEET NORTH AND 75 FEET WEST FROM THE SE CORNER OF SECTION 3

Transfer Review Criteria (OAR 690-380-4010)

- Water has been used 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.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-11867.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.

11. All other application requirements are met.

Determination and Proposed Action

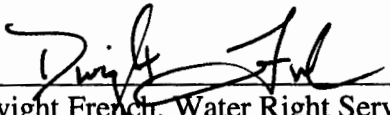
The additional point of appropriation proposed in Transfer Application T-11867 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11867 is approved, the final order will include the following:

1. *The additional point of appropriation proposed in Transfer Application T-11867 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 65786 and any related decree.*
3. *Water Right Certificate 65786 is cancelled.*
4. *The quantity of water diverted at the additional point 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) at each new point of appropriation.*
 - b. *The water user shall maintain the meters or measuring device 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, 2021**. 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, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 5 day of February, 2015.


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

This Preliminary Determination was prepared by Carrie Matthews. If you have questions about the information in this document, you may reach me at 541-523-8224 x 223 or Carrie.R.Matthews@ wrd.state.or.us.

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