



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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February 6, 2015

VIA E-MAIL

THOMAS P. CAMPBELL
52123 BUTTERMILK ROAD
CONDON, OR 97823

SUBJECT: Water Right Transfer Application T-11768

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11768. 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 Condon Times Journal 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@wrp.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Program Analyst
Transfer and Conservation Section

cc: Transfer Application file T-11768
Ken Thiemann, District 21 Watermaster (*via e-mail*)
Larry Toll, Tenneson Engineering Corp., Agent/CWRE for the applicant (*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-11768, Gilliam County) **PROPOSING APPROVAL OF**
) **CHANGES IN PLACE OF USE AND**
) **ADDITIONAL POINT 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.

Applicant

THOMAS P. CAMPBELL
52123 BUTTERMILK RD.
CONDON, OR 97823

Agent

TENNESON ENGINEERING CORP.
Attn: LARRY TOLL, CWRE
3775 CRATES WAY
THE DALLES, OR 97058

Findings of Fact

1. On March 21, 2014, Thomas Campbell filed an application proposing to change the place of use and add an additional point of diversion under Certificates 37917 and 46550. The Department assigned the application number T-11768.
2. Notice of the application for transfer was published on April 8, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

3. The portion of the first right to be transferred is as follows:

Certificate: 37917 in the name of PETER O. CAMPBELL (perfected under Permit S-33691)
Use: IRRIGATION OF 18.2 ACRES
Priority Date: JUNE 17, 1968
Rate: 0.19 CUBIC FOOT PER SECOND

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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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-FORTIETH 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 4.0 acre-feet per acre for each acre for each acre irrigated during the irrigation season of each year.

Source: LONE ROCK CREEK, a tributary of ROCK CREEK

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	23 E	WM	36	SW NE	1860 FEET SOUTH AND 140 FEET WEST FROM THE NE CORNER OF THE NW ¹ / ₄ NE ¹ / ₄ OF SECTION 36
5 S	23 E	WM	36	NE NW	780 FEET SOUTH AND 1440 FEET WEST FROM THE NE CORNER OF THE NW ¹ / ₄ NE ¹ / ₄ OF SECTION 36

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	23 E	WM	36	NE NE	0.7
5 S	23 E	WM	36	NW NE	4.5
5 S	23 E	WM	36	SE NE	6.7
5 S	23 E	WM	36	NE NW	2.1
5 S	23 E	WM	36	NE SE	4.2
Total					18.2

4. Transfer Application T-11768 proposes to change the place of use of the above described lands to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
5 S	23 E	WM	25	NW SW	10.9
5 S	23 E	WM	25	SW SW	7.3
Total					18.2

5. Transfer Application T-11768 also proposes an additional point of diversion downstream approximately 4875 feet from the most upstream authorized point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	23 E	WM	36	NW SW	1530 FEET NORTH AND 1160 FEET EAST FROM THE SW CORNER OF SECTION 25

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

Certificate: 46550 in the name of PETER O. CAMPBELL (perfected under Permit G-6140)

Use: SUPPLEMENTAL IRRIGATION OF 18.2 ACRES

Priority Date: NOVEMBER 1, 1974

Rate: 0.145 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, 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.

Source: A WELL within the LONE ROCK CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	23 E	WM	36	SW NE	560 FEET NORTH AND 1100 FEET EAST FROM THE CENTER OF SECTION 36

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	23 E	WM	36	SW NE	6.1
5 S	23 E	WM	36	SE NE	7.9
5 S	23 E	WM	36	NE SE	4.2
Total					18.2

- Transfer Application T-11768 proposes to change the place of use of the above described lands for supplemental irrigation to lands with the same primary right and complies with OAR 690-380-2240 (5) in regards to "similar reliability". The new proposed place of use is described as follows:

SUPPLEMENTAL IRRIGATION*					
Twp	Rng	Mer	Sec	Q - Q	Acres
5 S	23 E	WM	25	NE NE	14.9
5 S	23 E	WM	25	NW NE	3.3
Total					18.2

Note: there exists an underlying primary water right on these lands (i.e., Cert# 37917)

- 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.
- On November 18, 2014, the Department sent out a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11768 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 18, 2014, for the applicant to respond. The Agent for the applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information and documentation to demonstrate that the applicant is authorized to pursue the transfer.

Transfer Review Criteria [OAR 690-380-4010(2)]

- Water has been used within the five-year period prior to submittal of the transfer application 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.

11. A diversion structure and ditch, a well and 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-11768.
12. The proposed changes would not result in enlargement of the rights.
13. The proposed changes would not result in injury to other water rights.

Determination and Proposed Action

The additional point of diversion and change in place of use proposed in Transfer Application T-11768 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-11768 is approved, the final order will include the following:

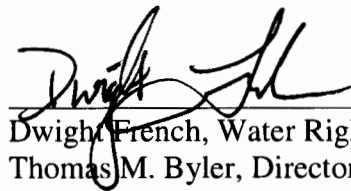
1. *The additional point of diversion and change in place of use proposed in Transfer Application T-11768 are approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 37917 and 46550 and any related decree.*
3. *Water right Certificates 37917 and 46550 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
4. *The quantity of water diverted at the new point of diversion, together with that diverted at the original points 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 and existing) 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. *The former places of use of the transferred rights shall no longer receive water under the rights as conditioned herein.*
8. *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.*
9. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

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



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

This Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or Ken.D.Dowden@ 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.