



# 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 17, 2015

VIA E-MAIL

Sunriver Water LLC  
PO Box 3699  
Sunriver, OR 97707

SUBJECT: Water Right Transfer Application T-11672

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11672. 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 Bend Bulletin 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 503-986-0892 or [Joan.M.Smith@ wrd.state.or.us](mailto:Joan.M.Smith@ wrd.state.or.us) if I may be of assistance.

Sincerely,

Joan Smith  
Transfer Specialist  
Transfer and Conservation Section

cc: T-11672  
Jeremy T. Giffin, District 11 Watermaster *(via e-mail)*  
Niall Boggs, Agent for the applicant *(via e-mail)*

encs

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

|                                       |   |                               |
|---------------------------------------|---|-------------------------------|
| In the Matter of Transfer Application | ) | PRELIMINARY DETERMINATION     |
| T-11672, Deschutes County             | ) | PROPOSING APPROVAL OF         |
|                                       | ) | ADDITIONAL POINTS OF          |
|                                       | ) | APPROPRIATION AND A CHANGE IN |
|                                       | ) | PLACE OF USE                  |

**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**

SUNRIVER WATER, LLC  
PO BOX 3699  
SUNRIVER, OR. 97707

**Findings of Fact**

1. On October 9, 2013, SUNRIVER WATER LLC filed an application to change the place of use and for additional points of appropriation under Certificates 88801 and 88802. The Department assigned the application number T-11672.
2. Notice of the application for transfer was published on October 22, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 8, 2014, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11672 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 8, 2014, 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.
4. Due to an administrative oversight publication of the Preliminary Determination for T-11672, occurred prior to issuance. Transfer Application T-11672 was published in the Bend Bulletin Newspaper on December 18 and 25, 2014.

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 first right to be transferred is as follows:

**Certificate:** 88801 in the name of SUNRIVER WATER LLC (perfected under Permit G-3810)

**Use:** QUASI-MUNICIPAL USE

**Priority Date:** SEPTEMBER 5, 1967

**Rate:** 2.30 CUBIC FEET PER SECOND

**Limit/Duty:** The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 2.30 CUBIC FEET PER SECOND, measured at the point of diversion.

**Source:** WELL#2 within the DESCHUTES RIVER BASIN

**Authorized Point of Appropriation:**

| Twp  | Rng  | Mer | Sec | Q-Q   | Measured Distances   |
|------|------|-----|-----|-------|--|
| 19 S | 11 E | WM  | 32  | SW SW | WELL #2- 1070 FEET NORTH AND 1300 FEET EAST FROM THE SW CORNER OF SECTION 32 |

**Authorized Place of Use:**

| QUASI-MUNICIPAL USE |      |     |     |       |
|---------------------|------|-----|-----|-------|
| Twp                 | Rng  | Mer | Sec | Q-Q   |
| 19 S                | 11 E | WM  | 29  | SW SW |
| 19 S                | 11 E | WM  | 29  | SE SW |
| 19 S                | 11 E | WM  | 30  | SE SE |
| 19 S                | 11 E | WM  | 31  | NE NE |
| 19 S                | 11 E | WM  | 32  | NE NE |
| 19 S                | 11 E | WM  | 32  | NW NE |
| 19 S                | 11 E | WM  | 32  | SW NE |
| 19 S                | 11 E | WM  | 32  | SE NE |
| 19 S                | 11 E | WM  | 32  | NE NW |
| 19 S                | 11 E | WM  | 32  | NW NW |
| 19 S                | 11 E | WM  | 32  | SW NW |
| 19 S                | 11 E | WM  | 32  | SE NW |
| 19 S                | 11 E | WM  | 32  | NE SW |
| 19 S                | 11 E | WM  | 32  | NW SW |
| 19 S                | 11 E | WM  | 32  | SE SW |
| 19 S                | 11 E | WM  | 32  | NE SE |
| 19 S                | 11 E | WM  | 32  | NW SE |
| 19 S                | 11 E | WM  | 32  | SW SE |
| 19 S                | 11 E | WM  | 32  | SE SE |
| 19 S                | 11 E | WM  | 33  | NE NW |
| 19 S                | 11 E | WM  | 33  | NW NW |
| 19 S                | 11 E | WM  | 33  | SW NW |
| 19 S                | 11 E | WM  | 33  | SE NW |
| 19 S                | 11 E | WM  | 33  | NE SW |
| 19 S                | 11 E | WM  | 33  | NW SW |
| 19 S                | 11 E | WM  | 33  | SW SW |
| 20 S                | 11 E | WM  | 5   | NE NE |
| 20 S                | 11 E | WM  | 5   | NW NE |
| 20 S                | 11 E | WM  | 5   | SW NE |
| 20 S                | 11 E | WM  | 5   | SE NE |
| 20 S                | 11 E | WM  | 5   | NE NW |

| QUASI-MUNICIPAL USE |      |     |     |       |
|---------------------|------|-----|-----|-------|
| Twp                 | Rng  | Mer | Sec | Q-Q   |
| 20 S                | 11 E | WM  | 5   | NW NW |
| 20 S                | 11 E | WM  | 5   | SW NW |
| 20 S                | 11 E | WM  | 5   | SE NW |
| 20 S                | 11 E | WM  | 5   | NE SW |
| 20 S                | 11 E | WM  | 5   | NW SW |
| 20 S                | 11 E | WM  | 5   | SW SW |
| 20 S                | 11 E | WM  | 5   | SE SW |
| 20 S                | 11 E | WM  | 5   | NW SE |
| 20 S                | 11 E | WM  | 5   | SW SE |
| 20 S                | 11 E | WM  | 6   | NE SW |
| 20 S                | 11 E | WM  | 6   | SE SW |
| 20 S                | 11 E | WM  | 6   | NE SE |
| 20 S                | 11 E | WM  | 6   | NW SE |
| 20 S                | 11 E | WM  | 6   | SW SE |
| 20 S                | 11 E | WM  | 6   | SE SE |

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

**Certificate:** 88802 in the name of SUNRIVER WATER LLC (perfected under Permit G-5609)

**Use:** QUASI-MUNICIPAL USE

**Priority Date:** AUGUST 28, 1972

**Rate:** 1.10 CUBIC FEET PER SECOND

**Limit/Duty:** The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.10 CUBIC FEET PER SECOND, measured at the well.

**Source:** WELL#2 within the DESCHUTES RIVER BASIN

**Authorized Point of Appropriation:**

| Twp  | Rng  | Mer | Sec | Q-Q   | Measured Distances   |
|------|------|-----|-----|-------|--|
| 19 S | 11 E | WM  | 32  | SW SW | WELL #2- 1070 FEET NORTH AND 1300 FEET EAST FROM THE SW CORNER OF SECTION 32 |

**Authorized Place of Use:**

| QUASI-MUNICIPAL USES |      |     |     |       |
|----------------------|------|-----|-----|-------|
| Twp                  | Rng  | Mer | Sec | Q-Q   |
| 19 S                 | 11 E | WM  | 29  | SW SW |
| 19 S                 | 11 E | WM  | 29  | SE SW |
| 19 S                 | 11 E | WM  | 30  | SE SE |
| 19 S                 | 11 E | WM  | 31  | NE NE |
| 19 S                 | 11 E | WM  | 32  | NE NE |
| 19 S                 | 11 E | WM  | 32  | NW NE |
| 19 S                 | 11 E | WM  | 32  | SW NE |
| 19 S                 | 11 E | WM  | 32  | SE NE |
| 19 S                 | 11 E | WM  | 32  | NE NW |
| 19 S                 | 11 E | WM  | 32  | NW NW |
| 19 S                 | 11 E | WM  | 32  | SW NW |
| 19 S                 | 11 E | WM  | 32  | SE NW |
| 19 S                 | 11 E | WM  | 32  | NE SW |

| QUASI-MUNICIPAL USES |      |     |     |       |
|----------------------|------|-----|-----|-------|
| Twp                  | Rng  | Mer | Sec | Q-Q   |
| 19 S                 | 11 E | WM  | 32  | NW SW |
| 19 S                 | 11 E | WM  | 32  | SE SW |
| 19 S                 | 11 E | WM  | 32  | NE SE |
| 19 S                 | 11 E | WM  | 32  | NW SE |
| 19 S                 | 11 E | WM  | 32  | SW SE |
| 19 S                 | 11 E | WM  | 32  | SE SE |
| 19 S                 | 11 E | WM  | 33  | NE NW |
| 19 S                 | 11 E | WM  | 33  | NW NW |
| 19 S                 | 11 E | WM  | 33  | SW NW |
| 19 S                 | 11 E | WM  | 33  | SE NW |
| 19 S                 | 11 E | WM  | 33  | NE SW |
| 19 S                 | 11 E | WM  | 33  | NW SW |
| 19 S                 | 11 E | WM  | 33  | SW SW |
| 20 S                 | 11 E | WM  | 5   | NE NE |
| 20 S                 | 11 E | WM  | 5   | NW NE |
| 20 S                 | 11 E | WM  | 5   | SW NE |
| 20 S                 | 11 E | WM  | 5   | SE NE |
| 20 S                 | 11 E | WM  | 5   | NE NW |
| 20 S                 | 11 E | WM  | 5   | NW NW |
| 20 S                 | 11 E | WM  | 5   | SW NW |
| 20 S                 | 11 E | WM  | 5   | SE NW |
| 20 S                 | 11 E | WM  | 5   | NE SW |
| 20 S                 | 11 E | WM  | 5   | NW SW |
| 20 S                 | 11 E | WM  | 5   | SW SW |
| 20 S                 | 11 E | WM  | 5   | SE SW |
| 20 S                 | 11 E | WM  | 5   | NW SE |
| 20 S                 | 11 E | WM  | 5   | SW SE |
| 20 S                 | 11 E | WM  | 6   | NE SW |
| 20 S                 | 11 E | WM  | 6   | SE SW |
| 20 S                 | 11 E | WM  | 6   | NE SE |
| 20 S                 | 11 E | WM  | 6   | NW SE |
| 20 S                 | 11 E | WM  | 6   | SW SE |
| 20 S                 | 11 E | WM  | 6   | SE SE |

7. Transfer Application T-11672 proposes 4 additional points of appropriation for each Certificate involved in this transfer, Certificates 88801 and 88802 with approximate distances from the authorized point of appropriation(POA) described below:

| Twp  | Rng  | Mer | Sec | Q-Q   | Measured Distances   | Approximate Distance from Authorized POA |
|------|------|-----|-----|-------|--|--|
| 19 S | 11 E | WM  | 29  | NE NE | WELL #9 - 1200 FEET SOUTH AND 70 FEET WEST FROM NE THE CORNER OF SECTION 29            | 1.9 Miles                                |
| 20 S | 11 E | WM  | 8   | NW NW | WELL #12 - 215 FEET SOUTH AND 830 FEET EAST FROM THE NW CORNER OF SECTION 8            | 1.2 Miles                                |
| 20 S | 11 E | WM  | 5   | NE NE | WELL #14 (aka 12 A) - 875 FEET SOUTH AND 340 FEET WEST FROM THE NE CORNER OF SECTION 5 | 0.8 Miles                                |

| Twp  | Rng  | Mer | Sec | Q-Q   | Measured Distances  | Approximate Distance from Authorized POA |
|------|------|-----|-----|-------|---|--|
| 20 S | 11 E | WM  | 5   | NE NE | WELL #16 - 890 FEET SOUTH AND 352 FEET WEST FROM THE NE CORNER OF SECTION 5 | 0.8 Miles                                |

8. Transfer Application T-11672 also proposes to change the place of use for Certificates 88801 and 88802 to:

|   |
|---|
| <b>QUASI-MUNICIPAL USE</b>                          |
| WITHIN THE SERVICE BOUNDARIES OF SUNRIVER WATER LLC |

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

9. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
10. Pumps, pipelines, and a water 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-11672.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

**Determination and Proposed Action**

The additional points of appropriation and the change in place of use proposed in Transfer Application T-11672 appear 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-11672 is approved, the final order will include the following:*

1. *The additional points of appropriation and the change in place of use proposed in Transfer Application T-11672 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 88801, 88802 and any related decree.*
3. *Water right certificates 88801 and 88802 are cancelled.*
4. *The quantity of water diverted at the additional points 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).*
  - 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. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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.*
8. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 17 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 Joan Smith. If you have questions about the information in this document, you may reach me at 503-986-0892 or [Joan.M.Smith@wrdd.state.or.us](mailto:Joan.M.Smith@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.*