



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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March 9, 2015

VIA E-MAIL

CAMERON S. KERNS
45306 SCHOOLHOUSE RD
HAINES, OR 97833

SUBJECT: Water Right Transfer Application T-11896

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11896. 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 Baker City 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 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: Transfer Application file T-11896
Rick M. Lusk, District 8 Watermaster (*via e-mail*)
Jan Kerns, Agent for the applicant (*via e-mail*)
Thomas J. Hanley, CWRE #241

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11896, Baker County)	PROPOSING APPROVAL OF AN
)	ADDITIONAL POINT OF
)	APPROPRIATION
)	

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

CAMERON S. KERNS
45306 SCHOOLHOUSE RD
HAINES, OR 97833

Findings of Fact

1. On September 26, 2014, Cameron S. Kerns filed an application for an additional point of appropriation under Certificate 28634. The Department assigned the application number T-11896.
2. Notice of the application for transfer was published on October 7, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The transfer application did not include evidence that the water right had been used in the last five years, required by OAR 690-380-3000(12). The Department contacted the applicants agent by e-mail on December 16, 2014 to notify the applicant of the deficiency. The Department requested the deficiencies by resolved by January 16, 2014.
4. The December 19, 2014, the Department received the requested Evidence of Use Affidavit.
5. On January 20, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11896 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 19, 2015, for the applicant to respond. The applicant requested that the date of full beneficial use of water be extended to October 1 2025, that the Department proceed with issuance of a Preliminary Determination,

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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and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

6. The right to be transferred is as follows:

Certificate: 28634 in the name of LORING W PERKINS (perfected under Permit G-49)

Use: SUPPLEMENTAL IRRIGATION of 112 ACRES

Priority Date: AUGUST 3, 1955

Rate: 1.40 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: PERKINS SUPPLEMENTAL IRRIGATION AND DRAINAGE WORKS WELL within the ROCK CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	38 E	WM	25	NE NE	575 FEET SOUTH AND 1225 FEET WEST FROM THE NE CORNER OF SECTION 25

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	38 E	WM	24	SE SE	37.2
7 S	38 E	WM	25	NE NE	37.2
7 S	39 E	WM	19	SW SW	37.6

7. Transfer Application T-11896 proposes an additional point of appropriation approximately 0.28 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	39 E	WM	19	NW NW	40 FEET NORTH AND 7 FEET EAST FROM THE SW CORNER OF SECTION 19

Transfer Review Criteria (OAR 690-380-4010)

8. 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.
9. 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-11896.
10. The proposed change would not result in enlargement of the right.

11. The proposed change would not result in injury to other water right.
12. All other application requirements are met.

Determination and Proposed Action

The additional point of appropriation proposed in Transfer Application T-11896 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-11896 is approved, the final order will include the following:

1. *The additional point of appropriation proposed in Transfer Application T-11896 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 28634 and any related decree.*
3. *Water right certificate 28634 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. *If the basin-fill sediments are fully penetrated during the drilling of the proposed well, thus tapping the underlying bedrock units within the basin, the portion of the well bore below this interface must be properly abandoned with cement grout, in order to maintain an open interval within the basin-fill sediments from which the existing POA currently pumps ground water.*
6. *Prior to using water from any well listed on this transfer final order, the permittee shall ensure that the wells have been assigned an OWRD Well Identification Number (Well ID). A tag showing the Well ID shall be permanently attached to the wells. If a well does not have a Well ID, the permittee shall apply for one from the Department and attach it to the well within 60 days of the date the transfer final order is issued. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.*
7. *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 point of appropriation.*
 - b. *The water user shall maintain the meter or measuring device in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter or measuring device(s); provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*

8. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
9. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2025**. 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.*
10. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 9 day of March 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@wrđ.state.or.us.