



Oregon

Kate Brown, Governor

Water Resources Department
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March 24, 2015

WARREN BEAN
1905 SE 10TH AVE
PORTLAND, OR 97214

SUBJECT: Water Right Transfer Application T-11968

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11968. 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 Tracy.L.Fox@wrp.state.or.us or 503 986-0827 if I may be of assistance.

Sincerely,

Ms. Tracy Fox
Transfer Specialist
Transfer and Conservation Section

cc: T-11968
Joel Plahn, District 16 Watermaster (*via e-mail*)
Gregory E. Kupillas, Agent for the applicant and CWRE (*via e-mail*)
Joel Neuschwander

enclosure

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

In the Matter of Transfer Application) **PRELIMINARY DETERMINATION**
T-11968, Clackamas County) **PROPOSING APPROVAL OF A**
) **CHANGE IN PLACE OF USE**

Authority

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

Applicant

WARREN BEAN
1905 SE 10TH AVE
PORTLAND, OR 97214

Findings of Fact

1. On January 22, 2015, WARREN BEAN filed an application to change the place of use under Certificate 89450. The Department assigned the application number T-11968.
2. Notice of the application for transfer was published on January 27, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 6, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11968 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 6, 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.
4. The portion of the right to be transferred is as follows:
Certificate: 89450 in the name of JOEL NEUSCHWANDER AND WARREN BEAN
(perfected under Permit S-11196)
Use: IRRIGATION of 2.4 ACRES
Priority Date: MARCH 5, 1934
Rate: 0.03 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.

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.

Source: ROCK CREEK, a tributary of the PUDDING RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 E	WM	31	NW SW	1240 FEET SOUTH AND 1090 FEET EAST FROM THE W1/4 CORNER OF SECTION 31

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Water User
4 S	1 W	WM	36	NE SE	2.4	Neuschwander

5. Transfer Application T-11968 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Water User
4 S	1 E	WM	31	NW NW	1.0	Bean
4 S	1 E	WM	31	SW NW	1.4	Bean

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

6. 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.
7. 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-11968.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

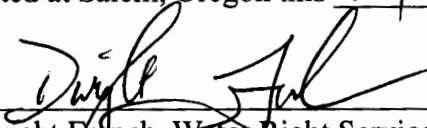
The change in place of use proposed in Transfer Application T-11968 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-11968 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-11968 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 89450 and any related decree.*
3. *Water right Certificate 89450 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The former place of use of the transferred right shall no longer receive water under the right.*
5. *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.*
6. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 24 day of March, 2015.



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

This Preliminary Determination was prepared by Tracy Fox. If you have questions about the information in this document, you may reach me at 503 986-0827 or Tracy.L.Fox@wrdd.state.or.us.

Protests should be addressed to the Water Rights Services Division, Oregon Water Resources Department, 725 Summer Street, Suite A, Salem, OR 97301-1266.