

Water Resources Department

725 Summer St NE, Suite A Salem, OR 97301 (503) 986-0900 Fax (503) 986-0904

March 26, 2015

VIA E-MAIL

DAVID AND MARY RICHENSTEIN PO BOX 69596 PORTLAND, OR 97239

SUBJECT: Water Right Transfer Application T-11964

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11964. 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@wrd.state.or.us or 503 986-0827 if I may be of assistance.

Sincerely,

Transfer Specialist

Transfer and Conservation Section

cc:

T-11964

Jeremy T. Giffin, District 11 Watermaster (via e-mail)

Bruce Estes, CWRE #1 (via e-mail)

enclosure

BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11964, Jefferson 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.

Applicants

DAVID A. AND MARY M. RICHENSTEIN PO BOX 69596 PORTLAND, OR 97239

Findings of Fact

- 1. On January 13, 2015, DAVID A. AND MARY M. RICHENSTEIN filed an application to change the place of use under Certificate 88448. The Department assigned the application number T-11964.
- 2. Notice of the application for transfer was published on January 20, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On February 18, 2015, the Department contacted the applicants by telephone to notify them of deficiencies in the application. The application needed to be amended to include all uses and the tax lot numbers referenced in the application and on the map needed to be corrected.
- 4. On February 24, and March 2, 2015, the applicant submitted amended application pages and an amended transfer map resolving the deficiencies.
- 5. On March 4, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11964 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 6, 2015, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are 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.

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

Certificate: 88448 in the name of DAVID A. AND MARY M. RICHENSTEIN

(confirmed by Deschutes River Decree (F))

Use: IRRIGATION OF 1.4 ACRES, DOMESTIC AND STOCK

Priority Date: 1888

Rate: 0.02 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, is limited to a diversion of ONE-SIXTIETH 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 of each year.

Period of Use: MAY 1 TO SEPTEMBER 15

Source: NORTH FORK LAKE CREEK, tributary to METOLIUS RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	9 E	WM	15	NW NW	440 FEET SOUTH AND 350 FEET EAST FROM THE NW CORNER OF SECTION 15

Authorized Place of Use:

Twp	vp Rng		Sec	Q-Q	Acres	
13 S	9 E	WM	15	NW NW	1.40	

7. Transfer Application T-11964 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	9 E	WM	15	NW NW	1.40

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

- 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 was present within the five-year period prior to submittal of Transfer Application T-11964.
- 10. The proposed change would not result in enlargement of the right.
- 11. 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-11964 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-11964 is approved, the final order will include the following:

- 1. The change in place of use proposed in Transfer Application T-11964 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 88448 and any related decree.
- 3. Water right Certificate 88448 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 30 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@wrd.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.