



Oregon

Kate Brown, Governor

Water Resources Department
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August 17, 2015

VIA E-MAIL

WOODBURN ORGANIC FARMS LLC
3555 TIMMONS LANE SUITE 800
HOUSTON, TX 77027

SUBJECT: Water Right Transfer Application T-11984

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11984. 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 Woodburn Independent 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 503-986-0890 or Sarah.A.Henderson@wr.d.state.or.us if I may be of assistance.

Sincerely,

Sarah Henderson
Transfer Specialist
Transfer and Conservation Section

cc: T-11984
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
Eric Pond, Agent for the applicant (*via e-mail*)
William McGill, CWRE #30680 (*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-11984, Marion County) **PROPOSING APPROVAL OF**
) **ADDITIONAL POINTS 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

WOODBURN ORGANIC FARMS LLC
3555 TIMMONS LANE SUITE 800
HOUSTON, TX 77027

Findings of Fact

1. On February 20, 2015, WOODBURN ORGANIC FARMS, LLC filed an application for additional points of appropriation under Certificates 47188 and 50613. The Department assigned the application number T-11984.
2. Notice of the application for transfer was published on March 3, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On July 22, 2015, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11984 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 22, 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 first right to be transferred is as follows:

Certificate: 47188 in the name of PAUL J. SERRES (perfected under Permit G-5720)
Use: IRRIGATION of 61.1 ACRES
Priority Date: MARCH 19, 1973
Rate: 0.76 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 and shall be further limited to a diversion of not to exceed 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: HERMLE WELL, a tributary of PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	1 W	WM	16	NW SW	54	HERMLE WELL (MARI 1762) WELL 1 - 1360 FEET NORTH AND 20 FEET EAST FROM THE SW CORNER OF SECTION 16

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	16	NW SW	54	1.8
5 S	1 W	WM	16	SW SW	54	30.8
5 S	1 W	WM	17	NE SE	54	2.0
5 S	1 W	WM	17	NW SE	54	0.2
5 S	1 W	WM	17	SW SE	54	1.3
5 S	1 W	WM	17	SE SE	54	25.0
Total						61.1

5. Transfer Application T-11984 proposes an additional point of appropriation approximately 0.4 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	1 W	WM	17	SW NE	42	WELL 2 (MARI 1813) - 120 FEET NORTH AND 1120 FEET EAST FROM THE NW CORNER OF FITZGERALD DLC 54

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

Certificate: 50613 in the name of PAUL J. SERRES (perfected under Permit G-5297)
Use: IRRIGATION of 85.2 ACRES and SUPPLEMENTAL IRRIGATION OF 52.0 ACRES

Priority Date: NOVEMBER 13, 1970

Rate: 1.67 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL, a tributary of PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	1 W	WM	17	SW NE	42	WELL 2 (MARI 1813)- 120 FEET NORTH AND 1120 FEET EAST FROM THE NW CORNER OF FITZGERALD DLC 54

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	17	SW NE	42	28.5
5 S	1 W	WM	17	SE NE	42	24.6
5 S	1 W	WM	17	SE NW	42	3.2
5 S	1 W	WM	17	NE SW	42	0.4
5 S	1 W	WM	17	NE SE	42	0.9
5 S	1 W	WM	17	NE SE	54	3.1
5 S	1 W	WM	17	NW SE	42	1.0
5 S	1 W	WM	17	NW SE	54	22.3
5 S	1 W	WM	17	SW SE	54	1.2
Total						85.2

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	16	NE SW	54	0.2
5 S	1 W	WM	16	NW SW	54	26.8
5 S	1 W	WM	17	NE SE	54	23.9
5 S	1 W	WM	17	NW SE	54	1.1
Total						52.0

7. Transfer Application T-11984 proposes an additional point of appropriation approximately 0.4 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	1 W	WM	16	NW SW	54	WELL 1 (MARI 1762) - 1360 FEET NORTH AND 20 FEET EAST FROM THE SW CORNER OF SECTION 16

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 rights. There is no information in the record that would demonstrate that the rights are 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 rights were present within the five-year period prior to submittal of Transfer Application T-11984.
10. The proposed change would not result in enlargement of the rights.
11. The proposed change would not result in injury to other water rights.

12. All other application requirements are met.


Determination and Proposed Action

The additional points of appropriation proposed in Transfer Application T-11984 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-11984 is approved, the final order will include the following:

1. *The additional points of appropriation proposed in Transfer Application T-11984 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 Certificate 47188 and 50613 and any related decree.*
3. *Water right Certificates 47188 and 50613 are cancelled.*
4. *The quantity of water diverted at the additional points of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.*
5. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
6. *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.*
7. *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 August, 2015.


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

This Preliminary Determination was prepared by Sarah Henderson. If you have questions about the information in this document, you may reach me at 503-986-0890 or Sarah.A.Henderson@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.