



Oregon

Kate Brown, Governor

Water Resources Department

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October ~~27~~, 2015

VIA E-MAIL

AVION WATER COMPANY
JASON WICK
60813 PARRELL RD
BEND, OR 97702

SUBJECT: Water Right Transfer Application T-11994

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11994. 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 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-11994
Jeremy T. Giffin, District 11 Watermaster (*via e-mail*)
Bruce Brody-heine, Agent for the applicant (*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-11994, Deschutes County)	PROPOSING APPROVAL OF
)	ADDITIONAL POINTS OF
)	APPROPRIATION AND CHANGE IN
)	PLACE OF USE

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

AVION WATER COMPANY
60813 PARRELL RD
BEND, OR 97702

Findings of Fact

1. On March 2, 2015, AVION WATER COMPANY filed an application for additional points of appropriation and to change the place of use under Certificate 85743. The Department assigned the application number T-11994.
2. Notice of the application for transfer was published on March 10, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 14, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11994 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 14, 2015, for the applicant to respond. The applicant requested 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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4. The right to be transferred is as follows:

Certificate: 85743 in the name of AVION WATER COMPANY, INC. (perfected under Permit G-11389)
Use: QUASI-MUNICIPAL USES
Priority Date: NOVEMBER 13, 1987
Rate: 1.0 CUBIC FOOT PER SECOND (CFS)
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.0 cubic foot per second or its equivalent in case of rotation, measured at the well.

Source: A WELL within the DESCHUTES RIVER BASIN

Authorized Point of Appropriation:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Tekampe Well #2	18 S	12 E	WM	21	SE NE	2240 FEET SOUTH AND 325 FEET WEST FROM THE NE CORNER OF SECTION 21

Authorized Place of Use:

QUASI-MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
17 S	12 E	WM	34	SE SW
17 S	12 E	WM	34	SW SE
17 S	12 E	WM	35	SE SW
17 S	12 E	WM	36	NE SW
17 S	12 E	WM	36	SW SE
17 S	12 E	WM	36	SE SE
17 S	13 E	WM	31	NE SW
17 S	13 E	WM	31	SW SW
17 S	13 E	WM	31	SE SW
17 S	13 E	WM	31	NW SE
18 S	12 E	WM	1	NE NE
18 S	12 E	WM	1	NW NE
18 S	12 E	WM	1	SW NE
18 S	12 E	WM	1	SE NE
18 S	12 E	WM	1	NE NW
18 S	12 E	WM	1	NW NW
18 S	12 E	WM	1	SW NW
18 S	12 E	WM	1	SE NW
18 S	12 E	WM	1	NE SW
18 S	12 E	WM	1	NW SW
18 S	12 E	WM	1	SW SW
18 S	12 E	WM	1	SE SW
18 S	12 E	WM	1	NW SE
18 S	12 E	WM	1	SW SE
18 S	12 E	WM	2	NE NE
18 S	12 E	WM	2	NW NE
18 S	12 E	WM	2	SW NE
18 S	12 E	WM	2	SE NE
18 S	12 E	WM	2	NE NW
18 S	12 E	WM	2	NW NW
18 S	12 E	WM	2	SW NW

QUASI-MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
18 S	12 E	WM	2	NE SW
18 S	12 E	WM	2	NW SW
18 S	12 E	WM	2	SW SW
18 S	12 E	WM	2	SE SW
18 S	12 E	WM	2	NE SE
18 S	12 E	WM	2	NW SE
18 S	12 E	WM	2	SW SE
18 S	12 E	WM	2	SE SE
18 S	12 E	WM	3	NE NE
18 S	12 E	WM	3	NW NE
18 S	12 E	WM	3	SW NE
18 S	12 E	WM	3	SE NE
18 S	12 E	WM	3	NE NW
18 S	12 E	WM	3	SE NW
18 S	12 E	WM	3	NE SE
18 S	12 E	WM	3	NW SE
18 S	12 E	WM	3	SW SE
18 S	12 E	WM	3	SE SE
18 S	12 E	WM	4	SW SE
18 S	12 E	WM	9	NE NE
18 S	12 E	WM	9	NW NE
18 S	12 E	WM	10	NE NE
18 S	12 E	WM	10	NW NE
18 S	12 E	WM	10	SW NE
18 S	12 E	WM	10	SE NE
18 S	12 E	WM	10	NE NW
18 S	12 E	WM	10	NW NW
18 S	12 E	WM	10	SW NW
18 S	12 E	WM	10	SE NW
18 S	12 E	WM	10	NE SW
18 S	12 E	WM	10	NW SW

QUASI-MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
18 S	12 E	WM	10	SW SW
18 S	12 E	WM	10	SE SW
18 S	12 E	WM	10	NE SE
18 S	12 E	WM	10	NW SE
18 S	12 E	WM	10	SW SE
18 S	12 E	WM	10	SE SE
18 S	12 E	WM	12	NW NE
18 S	12 E	WM	12	SW NE
18 S	12 E	WM	12	SW NW
18 S	12 E	WM	12	SE NW
18 S	12 E	WM	12	NE SW
18 S	12 E	WM	12	NW SW
18 S	12 E	WM	12	NW SE
18 S	12 E	WM	12	SW SE
18 S	12 E	WM	14	NE NW
18 S	12 E	WM	14	NW NW
18 S	12 E	WM	14	SW NW
18 S	12 E	WM	14	SE NW
18 S	12 E	WM	15	NW NE
18 S	12 E	WM	15	SW NE
18 S	12 E	WM	15	NE NW
18 S	12 E	WM	15	SE NW
18 S	12 E	WM	15	NE SW

QUASI-MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
18 S	12 E	WM	15	SE SW
18 S	12 E	WM	16	SW SE
18 S	12 E	WM	21	NE NE
18 S	12 E	WM	21	NW NE
18 S	12 E	WM	21	SW NE
18 S	12 E	WM	21	SE NE
18 S	12 E	WM	21	NE NW
18 S	12 E	WM	21	SE NW
18 S	12 E	WM	21	NE SE
18 S	12 E	WM	21	NW SE
18 S	12 E	WM	22	NW NW
18 S	12 E	WM	22	SW NW
18 S	12 E	WM	22	NW SW
18 S	12 E	WM	22	SW SW
18 S	12 E	WM	22	SE SW
18 S	12 E	WM	22	SW SE
18 S	12 E	WM	27	NE NW
18 S	13 E	WM	6	NE NE
18 S	13 E	WM	6	NW NE
18 S	13 E	WM	6	SW NE
18 S	13 E	WM	6	SE NE
18 S	13 E	WM	6	NW NW

5. Transfer Application T-11994 proposes additional points of appropriation:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Existing Well
Highland Well #1	16 S	12 E	WM	30	NW NE	1143 FEET SOUTH AND 1942 FEET WEST FROM THE NE CORNER OF SECTION 30	11.4
Tumalo Rim Well #1	17 S	12 E	WM	6	NW SW	1346 FEET NORTH AND 980 FEET EAST FROM THE SW CORNER OF SECTION 6	9.1
Tumalo Rim Well #2	17 S	12 E	WM	6	NW SW	1395 FEET NORTH AND 862 FEET EAST FROM THE SW CORNER OF SECTION 6	9.0

6. Transfer Application T-11994 also proposes to change the place of use of the right to:

QUASI-MUNICIPAL USES						
Well	Twp	Rng	Mer	Sec	Q-Q	
Highland Well #1	16 S	12 E	WM	30	NE NE	
Highland Well #1	16 S	12 E	WM	30	NW NE	
Highland Well #1	16 S	12 E	WM	30	SW NE	
Highland Well #1	16 S	12 E	WM	30	SE NE	
Highland Well #1	16 S	12 E	WM	30	NE NW	
Highland Well #1	16 S	12 E	WM	30	NE SE	
Highland Well #1	16 S	12 E	WM	30	NW SE	
Tumalo Rim Wells 1 & 2	17 S	11 E	WM	1	NE NE	
Tumalo Rim Wells 1 & 2	17 S	11 E	WM	1	SE NE	

QUASI-MUNICIPAL USES					
Well	Twp	Rng	Mer	Sec	Q-Q
Tumalo Rim Wells 1 & 2	17 S	12 E	WM	6	SW NW
Tumalo Rim Wells 1 & 2	17 S	12 E	WM	6	NW SW
Tumalo Rim Wells 1 & 2	17 S	12 E	WM	6	SW SW
Tekampe Well #2	17 S	12 E	WM	34	SE SW
Tekampe Well #2	17 S	12 E	WM	34	SW SE
Tekampe Well #2	17 S	12 E	WM	35	SE SW
Tekampe Well #2	17 S	12 E	WM	36	NE SW
Tekampe Well #2	17 S	12 E	WM	36	SW SE
Tekampe Well #2	17 S	12 E	WM	36	SE SE
Tekampe Well #2	17 S	13 E	WM	31	NE SW
Tekampe Well #2	17 S	13 E	WM	31	SW SW
Tekampe Well #2	17 S	13 E	WM	31	SE SW
Tekampe Well #2	17 S	13 E	WM	31	NW SE
Tekampe Well #2	18 S	12 E	WM	1	NE NE
Tekampe Well #2	18 S	12 E	WM	1	NW NE
Tekampe Well #2	18 S	12 E	WM	1	SW NE
Tekampe Well #2	18 S	12 E	WM	1	SE NE
Tekampe Well #2	18 S	12 E	WM	1	NE NW
Tekampe Well #2	18 S	12 E	WM	1	NW NW
Tekampe Well #2	18 S	12 E	WM	1	SW NW
Tekampe Well #2	18 S	12 E	WM	1	SE NW
Tekampe Well #2	18 S	12 E	WM	1	NE SW
Tekampe Well #2	18 S	12 E	WM	1	NW SW
Tekampe Well #2	18 S	12 E	WM	1	SW SW
Tekampe Well #2	18 S	12 E	WM	1	SE SW
Tekampe Well #2	18 S	12 E	WM	1	NW SE
Tekampe Well #2	18 S	12 E	WM	1	SW SE
Tekampe Well #2	18 S	12 E	WM	2	NE NE
Tekampe Well #2	18 S	12 E	WM	2	NW NE
Tekampe Well #2	18 S	12 E	WM	2	SW NE
Tekampe Well #2	18 S	12 E	WM	2	SE NE
Tekampe Well #2	18 S	12 E	WM	2	NE NW
Tekampe Well #2	18 S	12 E	WM	2	NW NW
Tekampe Well #2	18 S	12 E	WM	2	SW NW
Tekampe Well #2	18 S	12 E	WM	2	NE SW
Tekampe Well #2	18 S	12 E	WM	2	NW SW
Tekampe Well #2	18 S	12 E	WM	2	SW SW
Tekampe Well #2	18 S	12 E	WM	2	SE SW
Tekampe Well #2	18 S	12 E	WM	2	NE SE
Tekampe Well #2	18 S	12 E	WM	2	NW SE
Tekampe Well #2	18 S	12 E	WM	2	SW SE
Tekampe Well #2	18 S	12 E	WM	2	SE SE
Tekampe Well #2	18 S	12 E	WM	3	NE NE
Tekampe Well #2	18 S	12 E	WM	3	NW NE
Tekampe Well #2	18 S	12 E	WM	3	SW NE
Tekampe Well #2	18 S	12 E	WM	3	SE NE
Tekampe Well #2	18 S	12 E	WM	3	NE NW
Tekampe Well #2	18 S	12 E	WM	3	SE NW
Tekampe Well #2	18 S	12 E	WM	3	NE SE
Tekampe Well #2	18 S	12 E	WM	3	NW SE
Tekampe Well #2	18 S	12 E	WM	3	SW SE

QUASI-MUNICIPAL USES					
Well	Twp	Rng	Mer	Sec	Q-Q
Tekampe Well #2	18 S	12 E	WM	3	SE SE
Tekampe Well #2	18 S	12 E	WM	4	SW SE
Tekampe Well #2	18 S	12 E	WM	9	NE NE
Tekampe Well #2	18 S	12 E	WM	9	NW NE
Tekampe Well #2	18 S	12 E	WM	10	NE NE
Tekampe Well #2	18 S	12 E	WM	10	NW NE
Tekampe Well #2	18 S	12 E	WM	10	SW NE
Tekampe Well #2	18 S	12 E	WM	10	SE NE
Tekampe Well #2	18 S	12 E	WM	10	NE NW
Tekampe Well #2	18 S	12 E	WM	10	NW NW
Tekampe Well #2	18 S	12 E	WM	10	SW NW
Tekampe Well #2	18 S	12 E	WM	10	SE NW
Tekampe Well #2	18 S	12 E	WM	10	NE SW
Tekampe Well #2	18 S	12 E	WM	10	NW SW
Tekampe Well #2	18 S	12 E	WM	10	SW SW
Tekampe Well #2	18 S	12 E	WM	10	SE SW
Tekampe Well #2	18 S	12 E	WM	10	NE SE
Tekampe Well #2	18 S	12 E	WM	10	NW SE
Tekampe Well #2	18 S	12 E	WM	10	SW SE
Tekampe Well #2	18 S	12 E	WM	10	SE SE
Tekampe Well #2	18 S	12 E	WM	12	NW NE
Tekampe Well #2	18 S	12 E	WM	12	SW NE
Tekampe Well #2	18 S	12 E	WM	12	SW NW
Tekampe Well #2	18 S	12 E	WM	12	SE NW
Tekampe Well #2	18 S	12 E	WM	12	NE SW
Tekampe Well #2	18 S	12 E	WM	12	NW SW
Tekampe Well #2	18 S	12 E	WM	12	NW SE
Tekampe Well #2	18 S	12 E	WM	12	SW SE
Tekampe Well #2	18 S	12 E	WM	14	NE NW
Tekampe Well #2	18 S	12 E	WM	14	NW NW
Tekampe Well #2	18 S	12 E	WM	14	SW NW
Tekampe Well #2	18 S	12 E	WM	14	SE NW
Tekampe Well #2	18 S	12 E	WM	15	NW NE
Tekampe Well #2	18 S	12 E	WM	15	SW NE
Tekampe Well #2	18 S	12 E	WM	15	NE NW
Tekampe Well #2	18 S	12 E	WM	15	SE NW
Tekampe Well #2	18 S	12 E	WM	15	NE SW
Tekampe Well #2	18 S	12 E	WM	15	SE SW
Tekampe Well #2	18 S	12 E	WM	16	SW SE
Tekampe Well #2	18 S	12 E	WM	21	NE NE
Tekampe Well #2	18 S	12 E	WM	21	NW NE
Tekampe Well #2	18 S	12 E	WM	21	SW NE
Tekampe Well #2	18 S	12 E	WM	21	SE NE
Tekampe Well #2	18 S	12 E	WM	21	NE NW
Tekampe Well #2	18 S	12 E	WM	21	SE NW
Tekampe Well #2	18 S	12 E	WM	21	NE SE
Tekampe Well #2	18 S	12 E	WM	21	NW SE
Tekampe Well #2	18 S	12 E	WM	22	NW NW
Tekampe Well #2	18 S	12 E	WM	22	SW NW
Tekampe Well #2	18 S	12 E	WM	22	NW SW
Tekampe Well #2	18 S	12 E	WM	22	SW SW

QUASI-MUNICIPAL USES					
Well	Twp	Rng	Mer	Sec	Q-Q
Tekampe Well #2	18 S	12 E	WM	22	SE SW
Tekampe Well #2	18 S	12 E	WM	22	SW SE
Tekampe Well #2	18 S	12 E	WM	27	NE NW
Tekampe Well #2	18 S	13 E	WM	6	NE NE
Tekampe Well #2	18 S	13 E	WM	6	NW NE
Tekampe Well #2	18 S	13 E	WM	6	SW NE
Tekampe Well #2	18 S	13 E	WM	6	SE NE
Tekampe Well #2	18 S	13 E	WM	6	NW NW

Transfer Review Criteria (OAR 690-380-4010)

7. 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.
8. A pump and pipeline 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-11994.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

Determination and Proposed Action

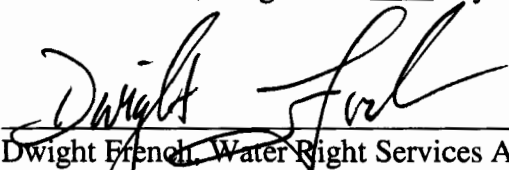
The additional points of appropriation and change in place of use proposed in Transfer Application T-11994 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11994 is approved, the final order will include the following:

1. *The additional points of appropriation and change in place of use proposed in Transfer Application T-11994 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 85743 and any related decree.*
3. *Water right Certificate 85743 is 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 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 point of appropriation.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 27 day of October, 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@ wrd.state.or.us.