

Water Resources Department

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

March 30, 2016

VIA E-MAIL

CAYUSE VINEYARDS, LLC PO BOX 1602 WALLA WALLA, WA 99362

SUBJECT: Water Right Transfer Application T-12205

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12205. 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 503-986-0890 or <u>Sarah.A.Henderson@wrd.state.or.us</u> if I may be of assistance.

Sincerely,

Sarah Henderson

Transfer Specialist

Transfer and Conservation Section

Count Henderson

cc:

T-12205

Gregory M. Silbernagel, District 5 Watermaster (via e-mail)

John S. Warinner, CWRE #358

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BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12205, Umatilla County)	PROPOSING APPROVAL OF AN
-)	ADDITIONAL POINT OF
)	APPROPRIATION

Authority

Oregon Revised Statutes (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 Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

CAYUSE VINEYARDS, LLC PO BOX 1602 WALLA WALLA, WA 99362

Findings of Fact

- 1. On November 23, 2015, CAYUSE VINEYARDS, LLC filed an application for an additional point of appropriation under Certificate 85956. The Department assigned the application number T-12205.
- 2. Notice of the application for transfer was published on December 1, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On February 29, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12205 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 30, 2016, 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 right to be transferred is as follows:

Certificate: 85956 in the name of CAYUSE VINEYARDS, LLC (perfected under

Permit G-13683)

Use: SUPPLEMENTAL IRRIGATION of 7.2 ACRES

Priority Date: OCTOBER 1, 1998

Rate: 0.09 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, is limited to a diversion of ONE-FORTIETH 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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each

year.

Period of Use: MARCH 1 through OCTOBER 31

Source: A WELL in the GOODMAN SPRINGS AND EAST MUD CREEK

SPRINGS BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	35 E	WM	34	SW NW	25 FEET NORTH AND 640 FEET EAST FROM THE W1/4 CORNER OF SECTION 34

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	35 E	WM	34	SW NW	7.2

5. Transfer Application T-12205 proposes an additional point of appropriation approximately 15 feet north from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	35 E	WM	34	SW NW	40 FEET NORTH AND 640 FEET EAST FROM THE W1/4 CORNER OF SECTION 34

Transfer Review Criteria (OAR 690-380-4010)

- 6. Water has been used within the last five years prior to the submittal of Transfer Application T-12205 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-12205.
- 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.
- 10. All other application requirements are met.

Determination and Proposed Action

The additional point of appropriation proposed in Transfer Application T-12205 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-12205 is approved, the final order will include the following:

- 1. The additional point of appropriation proposed in Transfer Application T-12205 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 85956 and any related decree.
- 3. Water right Certificate 85956 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. 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, 2017**. 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.
- 7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 28 day of March, 2016.

Dwight French. Water Right Services Administrator, for

Thomas M. Byler, Director

Oregon Water Resources Department

This Preliminary Determination was prepared by a Reimbursement Authority contractor and reviewed by Department staff. If you have questions about the information in this document, you may reach Sarah Henderson at 503-986-0890 or Sarah.A.Henderson@wrd.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.