

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-10400, Linn County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACE OF USE AND
	)	POINT OF APPROPRIATION, AND
	)	PARTIAL CANCELLATION OF THE
	)	WATER RIGHT

**Authority**

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

**Applicant**

G. B. ENTERPRISES, LLC  
21 C ORINDA WAY, #308  
ORINDA, CALIFORNIA 94563

**Findings of Fact**

**Background**

1. On June 4, 2007, Paula Bond of G.B. Enterprises, LLC, filed an application to change the place of use and point of appropriation under a portion of Certificate 32460. The Department assigned the application number T-10400.
2. The portion of the right to be transferred is as follows:
  - Certificate:** 32460 in the name of R.G. GATES (perfected under Permit G-1573)
  - Use:** IRRIGATION of 4.5 ACRES
  - Priority Date:** APRIL 12, 1960
  - Rate:** 0.057 CUBIC FEET PER SECOND (cfs)
  - 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-EIGHTIETH 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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.

**Source:** WELL #1 within the OWL CREEK BASIN (Willamette River)

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	DLC	Measured Distances
12 S	4 W	WM	8	NW SE	53	6.25 CHAINS (412.5 FEET) SOUTH and 6.0 CHAINS (396.0 FEET) EAST FROM NW CORNER of HAMILTON DLC 53

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	DLC	Acres
12 S	4 W	WM	8	SW NE	38	2.6
12 S	4 W	WM	8	SE NW	38	1.9

3. Transfer Application T-10400 proposes to change the place of use to a different configuration within the same quarter-quarters to:

IRRIGATION Within a Manufactured Home Park						
Twp	Rng	Mer	Sec	Q - Q	DLC	Acres
12 S	4 W	WM	8	SW NE	38	3.4
12 S	4 W	WM	8	SE NW	38	1.1

4. Transfer Application T-10400 also proposes to change the point of appropriation from Well 1 approximately 1975 feet north to Well 2, 1850 feet north to Well 3, and 460 feet northeast to Well 4, located:

Twp	Rng	Mer	Sec	Q - Q	DLC	Measured Distances
12 S	4 W	WM	8	NW NE	38	<b>WELL #2:</b> 1880 FEET NORTH and 580 FEET EAST FROM THE SW CORNER of BOND DLC 38
12 S	4 W	WM	8	NW NE	38	<b>WELL #3:</b> 1650 FEET NORTH and 450 FEET EAST FROM THE SW CORNER of BOND DLC 38
12 S	4 W	WM	8	SW NE	38	<b>WELL #4:</b> 50 FEET NORTH and 700 FEET EAST FROM THE SW CORNER of BOND DLC 38

5. Notice of the application for transfer was published on June 12, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. The Department has determined that the proposed points of appropriation Well# 4 (LINN 56115), Well# 2 (LINN 54762) and Well# 3 (LINN 10651) will all develop the same source of water as the authorized existing Well# 1 (LINN 10647 and LINN 10652/*deepening*).
7. On April 7, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10400 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 7, 2010, 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.

**Transfer Review Criteria (OAR 690-380-4010)**

8. Water has been used within the last five years prior to the submittal of Transfer Application T-10400 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 well, pump, pipeline, and various sprinkler systems 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-10400.
10. The proposed changes would not result in enlargement of the right.
11. The proposed changes would not result in injury to other water rights.

**Partial Cancellation of the Water Right**

12. On March 18, 2010, Paula Bond, Operations Manager of G.B. Enterprises, LLC, owner of the property appurtenant to the following water right, has submitted a voluntary cancellation affidavit meeting the requirements of ORS 540.621.

The portion of the water right to be cancelled is described as follows:

**Certificate:** 32460 in the name of R.G. GATES (perfected under Permit G-1573)

**Use:** IRRIGATION of 3.6 ACRES

**Priority Date:** APRIL 12, 1960

**Rate:** 0.045 CUBIC FEET PER SECOND (cfs)

**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-EIGHTIETH 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** WELL #1 within the OWL CREEK BASIN (WILLAMETTE RIVER)

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	DLC	Survey Coordinates
12 S	4 W	WM	8	NW SE	53	6.25 CHAINS (412.5 FEET) SOUTH and 6.0 CHAINS (396.0 FEET) EAST FROM NW CORNER of HAMILTON DLC 53

PLACE OF USE TO BE CANCELLED						
Twp	Rng	Mer	Sec	Q - Q	DLC	Acres
12 S	4 W	WM	8	SW NE	38	2.6
12 S	4 W	WM	8	SE NW	38	1.0

**Determination and Proposed Action**

The changes in place of use and point of appropriation proposed in Transfer Application T-10400 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the abandoned portion of the right should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned portion of the right will be cancelled.

*If application T-10400 is approved, the final order will include the following:*

- 1. The changes in place of use and point of appropriation proposed in application T-10400 are approved. The portion of the right that has been abandoned is cancelled.*
- 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 32460 and any related decree.*
- 3. Water right certificate 32460 is cancelled. A new certificate will be issued describing that portion of the right NOT affected by this transfer.*
- 4. Water from the new proposed wells shall be acquired from the same aquifer (water source) as the original point of appropriation Well #1 (LINN 10647 and LINN 10652/deepening).*
- 5. The quantity of water diverted at the new points of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.*
- 6. The Director may require the water user to install a totalizing flow meter or other suitable measuring devices at each new point of appropriation. If the Director notifies the water user to install totalizing flow meters or other measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices.*
- 7. The former place of use of the transferred right shall no longer receive water under the right.*
- 8. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. A Claim of Beneficial Use prepared by a Certified Water Rights 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.*
- 9. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 14 day of May 2010.

  
Phillip C. Ward, Director

This Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or Ken.D.Dowden@wrdd.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.