

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING OF
T-12738, Lane County)	ADDITIONAL POINTS OF
)	APPROPRIATION AND A CHANGE IN
)	PLACE OF USE

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

RAINBOW WATER DISTRICT
ATTN: JAMIE PORTER
PO BOX 8
SPRINGFIELD, OR 97477

Findings of Fact

1. On September 8, 2017, RAINBOW WATER DISTRICT filed an application for additional points of appropriation and to change the place of use under Certificate 45304. The Department assigned the application number T-12738.
2. Notice of the application for transfer was published on September 12, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 19, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12738 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 19, 2018.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

4. On January 11, 2018, the Department received a revised Table 1 of the application from the applicant's agent.
5. Based on the revised Table 1 submitted by the applicant's agent, the Department drafted a revised Preliminary Determination.
6. On January 12, 2018, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12738 to the applicant. The revised draft Preliminary Determination cover letter set forth a deadline of February 12, 2018, 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.
7. On January 24, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12738 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on January 30, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
8. The right to be transferred is as follows:

Certificate: 45304 in the name of RAINBOW WATER DISTRICT
(perfected under Permit G-5132)

Use: MUNICIPAL

Priority Date: SEPTEMBER 1, 1970

Rate: 2.0 CUBIC FEET PER SECOND

Source: WELL NO. 4, a tributary of MCKENZIE RIVER

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	3 W	WM	23	NW SE	1780 FEET NORTH AND 1980 FEET WEST FROM THE SE CORNER OF SECTION 23

Authorized Place of Use:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
17 S	2 W	WM	19	NE SW
17 S	2 W	WM	19	NW SW
17 S	2 W	WM	19	SW SW
17 S	2 W	WM	19	SE SW
17 S	2 W	WM	19	NE SE
17 S	2 W	WM	19	NW SE
17 S	2 W	WM	19	SW SE
17 S	2 W	WM	30	NW NW
17 S	2 W	WM	30	SW NW
17 S	3 W	WM	15	SW SW
17 S	3 W	WM	15	SE SW
17 S	3 W	WM	21	NE SE
17 S	3 W	WM	21	SE SE
17 S	3 W	WM	22	NW NE

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
17 S	3 W	WM	22	SW NE
17 S	3 W	WM	22	NE NW
17 S	3 W	WM	22	NW NW
17 S	3 W	WM	22	SW NW
17 S	3 W	WM	22	SE NW
17 S	3 W	WM	22	NE SW
17 S	3 W	WM	22	NW SW
17 S	3 W	WM	22	SW SW
17 S	3 W	WM	22	SE SW
17 S	3 W	WM	22	NE SE
17 S	3 W	WM	22	NW SE
17 S	3 W	WM	22	SW SE
17 S	3 W	WM	22	SE SE
17 S	3 W	WM	23	NE SW

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
17 S	3 W	WM	23	NW SW
17 S	3 W	WM	23	SW SW
17 S	3 W	WM	23	SE SW
17 S	3 W	WM	23	NW SE
17 S	3 W	WM	23	SW SE
17 S	3 W	WM	23	SE SE
17 S	3 W	WM	24	NE SW
17 S	3 W	WM	24	NW SW
17 S	3 W	WM	24	SW SW
17 S	3 W	WM	24	SE SW
17 S	3 W	WM	24	NE SE
17 S	3 W	WM	24	NW SE
17 S	3 W	WM	24	SW SE
17 S	3 W	WM	24	SE SE
17 S	3 W	WM	25	NE NE
17 S	3 W	WM	25	NW NE
17 S	3 W	WM	25	SW NE
17 S	3 W	WM	25	SE NE
17 S	3 W	WM	25	NE NW
17 S	3 W	WM	25	NW NW
17 S	3 W	WM	25	SW NW
17 S	3 W	WM	25	SE NW
17 S	3 W	WM	25	NE SW
17 S	3 W	WM	25	SE SW
17 S	3 W	WM	26	NE NE
17 S	3 W	WM	26	NW NE
17 S	3 W	WM	26	SW NE
17 S	3 W	WM	26	SE NE
17 S	3 W	WM	26	NE NW
17 S	3 W	WM	26	NW NW
17 S	3 W	WM	26	SW NW
17 S	3 W	WM	26	SE NW
17 S	3 W	WM	26	NE SW
17 S	3 W	WM	26	NW SW
17 S	3 W	WM	26	NW SE
17 S	3 W	WM	27	NE NE
17 S	3 W	WM	27	NW NE
17 S	3 W	WM	27	SW NE
17 S	3 W	WM	27	SE NE
17 S	3 W	WM	27	NE NW
17 S	3 W	WM	27	NW NW
17 S	3 W	WM	27	SW NW
17 S	3 W	WM	27	SE NW
17 S	3 W	WM	27	NE SW
17 S	3 W	WM	27	NW SW
17 S	3 W	WM	27	SW SW
17 S	3 W	WM	27	SE SW
17 S	3 W	WM	27	NE SE
17 S	3 W	WM	27	NW SE
17 S	3 W	WM	27	SW SE
17 S	3 W	WM	28	NE NE

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
17 S	3 W	WM	28	SE NE
17 S	3 W	WM	28	NE SE
17 S	3 W	WM	28	SE SE
17 S	3 W	WM	33	NE NE
17 S	3 W	WM	33	SE NE
17 S	3 W	WM	34	NW NE
17 S	3 W	WM	34	SW NE
17 S	3 W	WM	34	NE NW
17 S	3 W	WM	34	NW NW
17 S	3 W	WM	34	SW NW
17 S	3 W	WM	34	SE NW

9. Certificate 45304 does describe the location of the point of appropriation, however, information is available from the applicant and agent indicating that the point of appropriation is more accurately described as being located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
17 S	3 W	WM	23	NW SE	50	CHASE WELL 4 – 1750 FEET NORTH AND 1870 FEET WEST FROM THE SE CORNER OF SECTION 23

10. Transfer Application T-12738 proposes additional points of appropriation with approximate distances from the authorized points of appropriation located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Approximate distance from original well location measured in feet
17 S	3 W	WM	23	NE SE	50	CHASE WELL 5 - 1720 FEET NORTH AND 920 FEET WEST FROM THE SE CORNER OF SECTION 23	960
17 S	3 W	WM	23	NE SE	50	CHASE WELL 7 - 1640 FEET NORTH AND 1150 FEET WEST FROM THE SE CORNER OF SECTION 23	760
17 S	3 W	WM	23	NW SE	50	CHASE WELL 6 - 1650 FEET NORTH AND 1590 FEET WEST FROM THE SE CORNER OF SECTION 23	280

11. Transfer Application T-12738 also proposes to change the place of use of the right to:

MUNICIPAL USE
WITHIN THE RAINBOW WATER DISTRICT SERVICE AREA

Transfer Review Criteria (OAR 690-380-4010)

12. 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.
13. A pump and pipeline 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-12738.
14. The proposed changes would not result in enlargement of the right.
15. The proposed changes would not result in injury to other water rights.
16. All other application requirements are met.

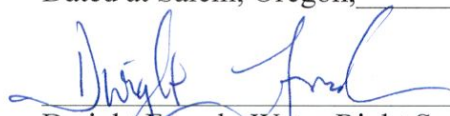
Conclusions of Law

The additional points of appropriation and change in place of use proposed in Transfer Application T-12738 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional points of appropriation and change in place of use proposed in Transfer Application T-12738 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 45304 and any related decree.
3. Water right Certificate 45304 is cancelled.
4. The quantity of water diverted at the proposed additional points 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 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, 2027**. 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.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon, MAR 05 2018.



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

Mailing date: MAR 06 2018