

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

In the Matter of Transfer Application	)	FINAL ORDER
T-12781, Crook County	)	APPROVING A CHANGE IN PLACE
	)	OF USE AND CHARACTER 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**

MCDOUGAL WATER SYSTEM ASSOCIATION  
ATTN: RON YORK  
2434 NW MCDOUGAL COURT  
PRINEVILLE, OR 97754-9302

**Agent**

PACIFIC HYDRO-GEOLOGY, INC.  
ATTN: DOANN HAMILTON  
18487 S. VALLEY VISTA ROAD  
PRINEVILLE, OR 97754

**Findings of Fact**

1. On December 8, 2017, McDougal Water System Association filed an application to change the character of use under Certificate 93321. The Department assigned the application number T-12781.
2. Notice of the application for transfer was published on December 19, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 1, 2018, the Department sent out correspondence to the applicant requesting revisions to the application and map. On June 8, 2018, the agent for the applicant submitted a revised application requesting to include a change in place of use under Certificate 93321 and submitted the additional fee required. The additional fee for the use was received on June 13, 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 June 21, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12781 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 21, 2018, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
5. On September 10, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12781 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 September 11, 2018, and in the Bend Bulletin newspaper on September 13 and 20, 2018 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

6. The right to be transferred is as follows:

**Certificate:** 93321 in the name of McDOUGAL WATER SYSTEM (perfected under Permit G-13516)

**Use:** GROUP DOMESTIC FOR 20 HOMES INCLUDING IRRIGATION OF LAWNS AND NON-COMMERCIAL GARDENS NOT TO EXCEED ½ ACRE IN AREA EACH

**Priority Date:** NOVEMBER 8, 1993

**Rate:** 0.056 CUBIC FOOT PER SECOND

**Period of Use:** YEAR ROUND

**Source:** A WELL within the OCHOCO CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	15 E	WM	36	SW NE	1828 FEET SOUTH AND 108 FEET EAST FROM THE N¼ CORNER OF SECTION 36

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q
14 S	15 E	WM	36	SW NE

7. Transfer Application T-12781 proposes to change the character of use from group domestic for 20 homes including irrigation of lawns and non-commercial gardens not to exceed ½ acre in area each to quasi-municipal use.
8. Transfer Application T-12781 also proposes to change the place of use of the right to:

QUASI-MUNICIPAL
WITHIN THE McDOUGAL WATER SYSTEM ASSOCIATION BOUNDARY

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

9. Water has been used within the last five years prior to the submittal of Transfer Application T-12871 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.

10. A well, 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-12781.
11. The proposed changes would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. The proposed change from group domestic for 20 households to quasi-municipal use has the potential to result in enlargement of the right. The total face value of the water right is for 40.47 acre-feet per year. The applicant requested that the transfer be conditioned to include a duty of 20.3 acre-feet per year to prevent enlargement of the water right.
14. All other application requirements are met.

### **Conclusions of Law**

The change in place of use and change in character of use proposed in Transfer Application T-12781 is 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 change in place of use and change in character of use proposed in Transfer Application T-12781 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 93321 and any related decree.
3. Water right Certificate 93321 is cancelled.
4. 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 the existing point of appropriation.
  - b. The water user shall maintain the meter or measuring device in good working order.
  - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
5. This use may be regulated if analysis of data available discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of this right or as those quantities may be subsequently reduced.

6. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this right, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior or senior appropriators to jointly develop plans to mitigate interference.
7. The use of water for quasi-municipal use will be conditioned to include a duty of 20.3 acre-feet of water per year.
8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2024**. 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.
9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this October 26, 2018.



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

Mailing date: October 29, 2018