

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

In the Matter of Transfer Application) FINAL ORDER APPROVING OF A
T-12632, Coos County) CHANGE IN CHARACTER OF USE

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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

CITY OF BANDON
C/O ROBERT MAWSON
PO BOX 67
BANDON, OR 97411

Findings of Fact

1. On April 5, 2017, CITY OF BANDON filed an application to change the character of use under Certificate 92293. The Department assigned the application number T-12632.
2. Notice of the application for transfer was published on April 18, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 18, 2017, the Department notified the agent of the applicant of the deficiencies found during the initial review of the transfer.
4. On June 13, 2017, the Agent, on behalf of the applicant, submitted sufficient documentation to resolve all deficiencies.
5. A scrivener's error was identified in the description of the authorized place of use for Certificate 92293. The listing in the NW¼ NE¼, Sec. 36, T28S, R15W, WM is in error, and has been removed as an authorized place of use.

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.

6. On June 22, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12632 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 21, 2017, 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 August 7, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-12632 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 August 15, 2017, and in the Coos Bay World newspaper on August 17, 2017 and August 24, 2017, 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: 92293 in the name of CITY OF BANDON
(perfected under Permit S-3011)

Use: DOMESTIC SUPPLY

Priority Date: JUNE 19, 1916

Rate: 1.6 CUBIC FEET PER SECOND

Source: GEIGER CREEK, a tributary of FERRY CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
28 S	14 W	WM	29	NW SE	1193.45 FEET NORTH AND 2709.05 FEET EAST FROM THE SW CORNER OF SECTION 29

Authorized Place of Use:

DOMESTIC SUPPLY				
Twp	Rng	Mer	Sec	Q-Q
28 S	14 W	WM	19	NE SW
28 S	14 W	WM	19	NW SW
28 S	14 W	WM	19	SW SW
28 S	14 W	WM	19	SE SW
28 S	14 W	WM	19	NE SE
28 S	14 W	WM	19	NW SE
28 S	14 W	WM	19	SW SE
28 S	14 W	WM	19	SE SE
28 S	14 W	WM	29	NW SW
28 S	14 W	WM	30	NE NE
28 S	14 W	WM	30	NW NE
28 S	14 W	WM	30	SW NE
28 S	14 W	WM	30	SE NE
28 S	14 W	WM	30	NE NW
28 S	14 W	WM	30	NW NW
28 S	14 W	WM	30	SW NW
28 S	14 W	WM	30	SE NW

DOMESTIC SUPPLY				
Twp	Rng	Mer	Sec	Q-Q
28 S	14 W	WM	30	NE SW
28 S	14 W	WM	30	NW SW
28 S	14 W	WM	30	SW SW
28 S	14 W	WM	30	SE SW
28 S	14 W	WM	30	NE SE
28 S	14 W	WM	30	NW SE
28 S	14 W	WM	30	SW SE
28 S	14 W	WM	30	SE SE
28 S	14 W	WM	31	NE NW
28 S	14 W	WM	31	NW NW
28 S	14 W	WM	31	SE NW
28 S	15 W	WM	25	NE NE
28 S	15 W	WM	25	NW NE
28 S	15 W	WM	25	SW NE
28 S	15 W	WM	25	SE NE
28 S	15 W	WM	25	NE NW
28 S	15 W	WM	25	SE NW

DOMESTIC SUPPLY				
Twp	Rng	Mer	Sec	Q-Q
28 S	15 W	WM	25	NE SW
28 S	15 W	WM	25	NW SW
28 S	15 W	WM	25	SW SW
28 S	15 W	WM	25	SE SW
28 S	15 W	WM	25	NE SE
28 S	15 W	WM	25	NW SE
28 S	15 W	WM	25	SW SE
28 S	15 W	WM	25	SE SE
28 S	15 W	WM	36	NE NE
28 S	15 W	WM	36	NE NW
28 S	15 W	WM	36	NW NW

DOMESTIC SUPPLY				
Twp	Rng	Mer	Sec	Q-Q
28 S	15 W	WM	36	SW NW
28 S	15 W	WM	36	SE NW
28 S	15 W	WM	36	NE SW
28 S	15 W	WM	36	NW SW
28 S	15 W	WM	36	SW SW
28 S	15 W	WM	36	SE SW
28 S	15 W	WM	36	NE SE
28 S	15 W	WM	36	NW SE
28 S	15 W	WM	36	SW SE
28 S	15 W	WM	36	SE SE

9. Transfer Application T-12632 proposed to change the character of use to municipal use.

Transfer Review Criteria [OAR 690-380-4010(2)]

10. 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.
11. 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-12632.
12. The proposed change would not result in enlargement of the right, provided the rate of diversion for municipal uses is limited to 1.6 cubic foot per second and further limited to a total volume diverted of 1158.4 acre-feet per year.
13. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in character of use proposed in Transfer Application T-12632 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in character of use proposed in Transfer Application T-12632 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 92293 and any related decree.
3. Water right Certificate 92293 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 each point of appropriation.
 - b. The water user shall maintain the meter or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring devices; provided however, where the meter or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
5. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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.
6. 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 September, 2017.



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

Mailing date: OCT 03 2017