



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

April 21, 2015

VIA E-MAIL

U.S. BUREAU OF RECLAMATION
ATTN: BILL FERRY
1917 MARSH ROAD
YAKIMA OR 98901

SUBJECT: Water Right Transfer Application T-11872

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11872. 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 and in the Hillsboro Tribune newspaper, 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 last date of newspaper publication.

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 503-986-0886 or Patrick.K.Starnes@wrд.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst

Transfer and Conservation Section

cc: Transfer Application file T-11872
Jake Constans, District 18 Watermaster (*via e-mail*)
Kim Grigsby, Agent for the applicant (*via e-mail*)

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11872, Washington County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE AND
)	CHARACTER OF USE

Authority

Oregon Revised Statute (ORS) 540.505 to 540.580 establishes 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 Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

U.S. BUREAU OF RECLAMATION
ATTN BILL FERRY
1917 MARSH ROAD
YAKIMA WA 98901

Findings of Fact

1. On August 5, 2014, U.S. BUREAU OF RECLAMATION filed an application to change the place of use and character of use under Certificate 87303. The Department assigned the application number T-11872.
2. Notice of the application for transfer was published on August 12, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 23, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11872 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 25, 2015, for the applicant to respond.
4. On February 24, 2015, the applicant's agent notified the Department that there was an error in the draft Preliminary Determination. A portion of the authorized place of use of Certificate 87303 was not described in the draft. This REVISED draft Preliminary Determination is issued to correctly describe the authorized place of use of Certificate 87303.

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.
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5. On March 11, 2015, a revised draft preliminary determination was issued to correctly describe the authorized place of use of Certificate 87303. The revised draft Preliminary Determination cover letter set forth a deadline of April 10, 2015 for the applicant to respond. The applicant requested that the Department proceed with the issuance of the Preliminary Determination.

5. The right to be transferred is as follows:

Certificate: 87303 in the name of U.S. BUREAU OF RECLAMATION (perfected under Permit S-35792)
Use: IRRIGATION OF 200.1 ACRES
Priority Date: FEBRUARY 20, 1963
Rate: 500.0 ACRE FEET OF STORED WATER
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 not to exceed 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.
Source: SCOGGINS RESERVOIR/HENRY HAGG LAKE, CONSTRUCTED UNDER PERMIT R-5777, a tributary to Scoggins Creek

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	4 W	WM	20	NE NE	SCOGGINS RESERVOIR - 700 FEET SOUTH AND 1030 FEET WEST FROM THE NE CORNER OF SECTION 20.

Authorized Point of Re-Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	3 W	WM	8	SW SW	SPRING HILL INTAKE - 500 FEET NORTH AND 410 FEET EAST FROM THE SW CORNER OF SECTION 8.

Authorized Place of Use:

MUNICIPAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	2 W	WM	22	SE NE	1.6
1 N	2 W	WM	22	SW SW	3.5
1 N	2 W	WM	22	SE SW	0.3
1 N	2 W	WM	22	NE SE	3.6
1 N	2 W	WM	22	SE SE	2.9
1 N	2 W	WM	23	SW NW	2.6
1 N	2 W	WM	23	NE SW	2.0
1 N	2 W	WM	23	NW SW	27.9
1 N	2 W	WM	23	SW SW	18.2
1 N	2 W	WM	23	SE SW	0.1
1 N	2 W	WM	27	SW SE	1.1
1 N	2 W	WM	27	SE SE	2.5
1 N	2 W	WM	31	NW NE	2.7
1 N	2 W	WM	31	NE NW	3.7
1 N	2 W	WM	31	NW SW	1.9
1 N	2 W	WM	31	SW SW	2.0

MUNICIPAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	2 W	WM	31	SE SW	0.2
1 N	2 W	WM	31	SE SE	0.3
1 N	2 W	WM	32	NE NE	5.9
1 N	2 W	WM	32	SE NE	9.9
1 N	2 W	WM	32	NE SE	10.4
1 N	2 W	WM	32	NW SE	1.2
1 N	2 W	WM	32	SW SE	4.2
1 N	2 W	WM	33	NE NW	0.3
1 N	2 W	WM	33	NW NW	10.2
1 N	2 W	WM	33	SW NW	26.0
1 N	2 W	WM	33	SE NW	7.8
1 N	2 W	WM	33	NW SW	2.6
1 N	2 W	WM	34	NW SW	2.6
1 N	3 W	WM	36	SE NE	0.5
1 N	3 W	WM	36	NE SE	1.3
1 S	2 W	WM	5	NE NW	1.9
1 S	2 W	WM	5	NW NW	0.5
1 S	2 W	WM	6	SW NE	4.2
1 S	2 W	WM	6	SE NE	9.6
1 S	2 W	WM	6	SW NW	1.6
1 S	2 W	WM	6	SE NW	0.8
1 S	2 W	WM	6	NE SW	8.6
1 S	2 W	WM	6	SE SW	2.6
1 S	2 W	WM	6	NE SE	1.0
1 S	2 W	WM	6	NW SE	4.4
1 S	2 W	WM	6	SW SE	4.9
TOTAL					200.1

6. Transfer Application T-11872 proposes to change the character of use to municipal use.
7. Transfer Application T-11872 also proposes to change the place of use of the right to:

MUNICIPAL USE
CITY OF HILLSBORO'S SERVICE AREA WITHIN THE CITY LIMITS OF THE CITY OF HILLSBORO

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

8. Water has been used within the last five years. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
9. A diversion structure and pipeline sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-11872.
10. The proposed changes, if conditioned to limit the use of water to 500 acre feet stored water only during the irrigation season of each year, would not enlarge the right.
11. The proposed changes, as conditioned, would not result in injury to other water rights.

Determination and Proposed Action

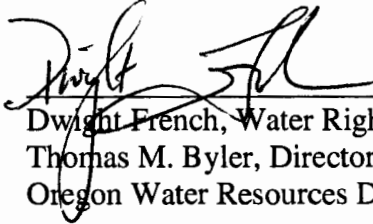
The change in place of use and character of use proposed in Transfer Application T-11872 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-11872 is approved, the final order will include the following:

- 1. The changes in place of use and character of use proposed in Transfer Application T-11872 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 87303 and any related decree.*
- 3. Water Right Certificate 87303 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 point of diversion.*
 - 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.*
- 5. The use of water for the proposed municipal use shall be limited to 500 acre-feet stored water only during the irrigation season of each year.*
- 6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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(s) 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 24 day of April, 2015.



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

This Preliminary Determination was prepared by Kelly Starnes. If you have questions about the information in this document, you may reach me at 503-986-0886 or Patrick.K.Starnes@wrд.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.