



Oregon

Kate Brown, Governor

Water Resources Department

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May 14, 2015

DARIN MOLESWORTH
1455 CARROLL ROAD
MOSIER OR 97040

SUBJECT: Water Right Transfer Application T-11952

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11952. 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 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 Department's notice.

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@wrdd.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst
Transfer and Conservation Section

cc: Transfer Application file T-11952
Bob Wood, District 3 Watermaster (*via e-mail*)
Larry Toll, Agent/CWRE 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)
T-11952, Wasco County)
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)

**PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF A
CHANGE IN POINT OF
APPROPRIATION**

Authority

Oregon Revised Statute (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 Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

Darin Molesworth
1455 Carroll Rd.
Mosier, OR 97040

Agent

Tenneson Engineering Corp.
Attn: Larry Toll
3775 Crates Way
The Dalles, OR 97058

Findings of Fact

1. On December 22, 2014, Darin Molesworth filed an application to change the point of appropriation under Certificate 37043. The Department assigned the application number T-11952.
2. Notice of the application for transfer was published on January 6, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 16, 2015, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11952 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 16, 2015, for the applicant to respond. On April 16, 2015, the agent for the applicant requested clarification for the transfer proposed points of appropriation. On April 16, 2015, the agent for the applicant requested clarification for the transfer proposed points of appropriation. The Department finds that the use of Well #2 was applied for, been used in the interim prior to Well #3 construction. Well #3 has now been constructed, plumbed and is in use. The Agent for the applicant informed the Department that Well #2 has now been abandoned, and requested the Department proceed with Well #3 only. On April 30, 2015, the agent for 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.

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.

4. The right to be transferred is as follows:

Certificate: 37043 in the name of GEORGE R. WILSON and/or CHARLES R. GOVE
(perfected under Permit G-2835)
Use: SUPPLEMENTAL IRRIGATION OF 37.8 ACRES
Priority Date: FEBRUARY 26, 1965
Rate: 0.33 CUBIC FOOT PER SECOND
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 ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL within the MOSIER CREEK BASIN (COLUMBIA RIVER)

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 N	12 E	WM	7	NW SW	680 FEET SOUTH AND 110 FEET EAST FROM THE W¼ CORNER OF SECTION 7

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 N	12 E	WM	7	NW SW	37.8

5. Transfer Application T-11952 proposes to change the point of appropriation temporarily to Well #2 until Well #3 is constructed and approved by OWRD. Upon the completion of Well #3 it will become the only source of water. The new proposed wells are approximately 25 feet from the original well located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 N	12 E	WM	7	NW SW	WELL #2 - 665 FEET SOUTH AND 128 FEET EAST FROM THE W¼ CORNER OF SECTION 7
2 N	12 E	WM	7	NW SW	WELL #3 - 700 FEET SOUTH AND 95 FEET EAST FROM THE W¼ CORNER OF SECTION 7

Transfer Review Criteria (OAR 690-380-4010)

- Water has been used within the last five years prior to submittal of Transfer Application T-11952 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.
- A well, pump, pipeline, and sprinkler system 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-11952.

8. The Department has determined that the proposed point of appropriation, Well #3 (WASC 52265), would develop the same groundwater aquifer as the authorized point of appropriation, Well #1 (WASC 2864). Under OAR 690-380-2110, any request for a change in point of appropriation is restricted to the same aquifer.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

Determination and Proposed Action


The change in point of appropriation proposed in Transfer Application T-11952 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11952 is approved, the final order will include the following:

1. *The change in point of appropriation proposed in Transfer Application T-11952 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 37043 and any related decree.*
3. *Water right Certificate 37043 is cancelled.*
4. *The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
5. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation (WASC 2864).*
6. *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 new point of diversion.*
 - 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 meters or measuring devices; provided however, where the meters or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*

7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2016**. 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 this 15 day of May, 2015.


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

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@wrд.state.or.us

Protests should be addressed to the attention of Transfer and Conservation Section, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.