



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

June 18, 2015

DOG RIVER ORCHARDS, LLC

PO BOX 445

PARKDALE, OR 97041

SUBJECT: Water Right Transfer Application T-12014

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12014. 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@wr.d.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst

Transfer and Conservation Section

cc: Transfer Application file T-12014
Bob Wood, District 3 Watermaster (via e-mail)
Larry Toll, Agent/CWRE #132 (via e-mail)

encs

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12014, Wasco County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE

Authority

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

DOG RIVER ORCHARDS, LLC
P.O. BOX 445
PARKDALE, OR 97041

Agent

TENNESON ENGINEERING CORP.
ATTN: LARRY TOLL
3775 CRATES WAY
THE DALLES, OR 97058

Findings of Fact

1. On March 23, 2015, DOG RIVER ORCHARDS, LLC, BY GORHAM BLAINE, MANAGING MEMBER, filed an application to change the place of use under Certificate 89584. The Department assigned the application number T-12014.
2. Notice of the application for transfer was published on March 31, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 12, 2015, the Department mailed a copy of the Preliminary Determination proposing to approve Transfer Application T-12014 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 11, 2015 for the applicant to respond. On June 1, 2015, 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 portion of the right is as follows:

Certificate: 89584 in the name of LOST AND BOULDER DITCH COMPANY
(perfected under Permit S-47709)
Use: IRRIGATION OF 27.0 ACRES
Priority Date: MARCH 10, 1980 FOR 0.668 CUBIC FOOT PER SECOND (CFS) AND
MAY 7, 1981 FOR 0.069 CFS
Rate: 0.675 CFS
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 ONE-FORTIETH of one cubic foot per second (or its equivalent) for each acre irrigated and shall be further limited to a diversion of 3.0 acre feet per acre during the irrigation season of each year.
Sources: LOST CREEK, BOULDER CREEK AND FOREST CREEK, TRIBUTARIES TO THE WHITE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	10 E	WM	26	SE SW	LOST CREEK - 1310 FEET NORTH AND 1730 FEET EAST FROM THE SW CORNER OF SECTION 26
4 S	10 E	WM	27	NE SE	BOULDER CREEK - 2010 FEET NORTH AND 180 FEET WEST FROM THE SE CORNER OF SECTION 27
4 S	10 E	WM	27	SW SW	FOREST CREEK - 195 FEET NORTH AND 256 FEET EAST FROM THE SW CORNER OF SECTION 27

Authorized Places of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	GLot	Tax Lot	Q-Q	Acres
4 S	12 E	WM	34		5500	SE SE	4.1
5 S	12 E	WM	3	2	600	NW NE	16.0
5 S	12 E	WM	3	3	600	NE NW	6.9
Total							27.0

5. Transfer Application T-12014 proposes to change the place of use of the above described right to:

IRRIGATION							
Twp	Rng	Mer	Sec	GLot	Tax Lot	Q-Q	Acres
4 S	12 E	WM	33		5500	SE SE	12.5
4 S	12 E	WM	34		5500	NW SW	6.5
4 S	12 E	WM	34		5500	SW SW	1.0
5 S	12 E	WM	3	4	600	NW NW	7.0
Total							27.0

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

6. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the records that would demonstrate that the right is subject to forfeiture under ORS 540.610.

7. Diversion structures, ditches and a delivery 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-12014.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in place of use proposed in Transfer Application T-12014 appears 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-12014 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-12014 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 89584 and any related decree.*
3. *Water right certificate 89584 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The former place of use of the transferred right shall no longer receive water under the right.*
5. *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 changes and full beneficial use of the water.*

6. *After satisfactory proof of beneficial use is received, new certificates confirming the right transferred will be issued.*

Dated at Salem, Oregon this 18 day of June, 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

NOTICE TO ACTIVE DUTY SERVICEMEMBERS: Active duty service members have a right to stay these proceedings under the federal Service members Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

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.