



Oregon

Kate Brown, Governor

Water Resources Department

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November 23, 2015

VIA E-MAIL

DAVID L. AND ROSEMARY J. PETERSON
PO BOX 1588
PRINEVILLE, OR 97754
R2horses@yahoo.com

SUBJECT: Water Right Transfer Application T-12064

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12064. 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-12064
Jeremy T. Giffin, District 11 Watermaster (*via e-mail*)
David B. Armstrong, CWRE, Armstrong Surveying & Engineering, Inc.

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12064, Crook County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN POINT OF
	)	APPROPRIATION AND A CHANGE IN
	)	PLACE OF USE

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

DAVID L. AND ROSEMARY J. PETERSON
PO BOX 1588
PRINEVILLE, OR 97754
R2horses@yahoo.com

Findings of Fact

1. On May 21, 2015, DAVID L. AND ROSEMARY J. PETERSON filed an application to change the point of appropriation and to change the place of use under Certificate 86742. The Department assigned the application number T-12064.
2. Notice of the application for transfer was published on June 2, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 1, 2015 the applicant submitted a revised application and map clarifying the place of use modified in T-12064.
4. On October 12, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12064 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of November 12, 2015, for the applicants to respond. The applicants 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.
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5. The portion of the right to be transferred is as follows:

Certificate: 86742 in the name of RIVERS BEND DEVELOPMENT LLC (perfected under Permit G-11684)
Use: IRRIGATION OF 2.5 ACRES
Priority Date: MARCH 24, 1992
Rate: 0.03 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 a diversion of ONE-EIGHTIETH of one cubic foot per second, 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. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
Source: TWO WELLS within the DRY CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	16 E	WM	12	SE SW	147 FEET NORTH AND 581 FEET WEST FROM THE S $\frac{1}{4}$ CORNER OF SECTION 12
16 S	16 E	WM	12	SE SW	178 FEET NORTH AND 510 FEET WEST FROM THE S $\frac{1}{4}$ CORNER OF SECTION 12

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Redtail Meadows Subdivision Lot Number	Acres	Type of Change
16 S	16 E	WM	12	SE SW	7	1.7	POA
16 S	16 E	WM	12	SE SW	7	0.8	POA and POU

6. Transfer Application T-12064 proposes to move the authorized point of appropriation approximately 800 feet from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	16 E	WM	12	SE SW	WELL 4 - 840 FEET NORTH AND 900 FEET WEST FROM THE S $\frac{1}{4}$ CORNER OF SECTION 12

7. Transfer Application T-12064 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Redtail Meadows Subdivision Lot Number	Acres
16 S	16 E	WM	12	SE SW	7	0.8

Transfer Review Criteria (OAR 690-380-4010)

8. 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.

9. 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-12064.
10. The proposed changes would not result in enlargement of the right.
11. The proposed changes would not result in injury to other water rights.
12. All other application requirements are met.

Determination and Proposed Action

The change in point of appropriation and change in place of use proposed in Transfer Application T-12064 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-12064 is approved, the final order will include the following:

1. *The change in point of appropriation and change in place of use proposed in Transfer Application T-12064 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 86742 and any related decree.*
3. *Water right Certificate 86742 is cancelled. A new certificate will be issued describing those portions of the right not affected by this transfer.*
4. *The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.*
5. *Water shall be acquired from the same aquifer (water source) as the original points of appropriations.*
6. *The former place of use of the transferred right shall no longer receive water under the right.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2017**. 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.*

8. *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 November, 2015.



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

This Preliminary Determination was prepared by Marcy Osborn. If you have any questions about the information in this document, you may reach me at 541-523-8224 ext. 228 or marcy.j.osborn@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.