



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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April 14, 2016

DAE-LEE LLC (VIA E-MAIL)
11383 NW 195TH AVE
HILLSBORO, OR 97124
daveg43@yahoo.com

SUBJECT: Water Right Transfer Application T-12216

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12216. 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 Argus 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 Tracy.L.Fox@wr.d.state.or.us or 503-986-0827 if I may be of assistance.

Sincerely,

Ms. Tracy Fox
Transfer Specialist
Transfer and Conservation Section

cc: T-12216
Jacob W. Constans, District 18 Watermaster (*via e-mail*)
Jeffrey Kee, Agent for the applicant, also CWRE #60125 (*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-12216, Washington County) **PROPOSING APPROVAL OF A**
) **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

DAE-LEE LLC
11383 NW 195TH AVE
HILLSBORO, OR 97124

Findings of Fact

1. On December 11, 2015, DAE-LEE LLC filed an application to change the character of use under Certificate 69327. The Department assigned the application number T-12216.
2. Notice of the application for transfer was published on December 22, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 10, and 11, 2016, the Department contacted the applicant and Certified Water Right Examiner (CWRE) by telephone and email for clarification regarding some discrepancies on the application.
4. On February 11, and 16, 2016, the CWRE submitted amended documents resolving the questions.
5. On February 17, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12216 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 18, 2016, for the applicant to respond. The applicant requested that the Department extend the date for completion to October 1, 2018, and 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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6. The right to be transferred is as follows:

Certificate: 69327 in the name of DAVE GRIFFITH (perfected under Reservoir Application R-74893)
Use: STORAGE in Unnamed Reservoir for LIVESTOCK and WILDLIFE
Priority Date: JANUARY 1, 1993
Limit/Duty: The amount of water entitled to be stored and used each year under this right is not more than 0.75 ACRE-FEET (AF), BEING 0.50 AF IN RES 1 AND 0.25 AF IN RES 2
Source: RUNOFF, a tributary of the COLUMBIA SLOUGH

The Reservoirs are Located As Follows:

Twp	Rng	Mer	Sec	Reservoir
1 N	2 E	WM	1	1
1 N	2 E	WM	1	2

7. There is a scrivener's error in the description of the authorized location of the reservoirs in Certificate 69327. Based on the original reservoir application, the property deed and the transfer map, the reservoirs are actually located in Range 2 West, not Range 2 East. This in turn changes the tributary from the Columbia Slough to Rock Creek.

8. Certificate 69327 does not describe the quarter quarter or the measured distances, however additional information is available from the applicant and CWRE further describing the location of the reservoirs, including the correction of the Range, as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	2 W	WM	1	SE NW	RESERVOIR 1: 1460 FEET SOUTH AND 650 FEET WEST FROM THE NORTH 1/4 CORNER OF SECTION 1
1 N	2 W	WM	1	SE NW	RESERVOIR 2: 1500 FEET SOUTH AND 1200 FEET WEST FROM THE NORTH 1/4 CORNER OF SECTION 1

9. Transfer Application T-12216 proposes to change the character of use to multipurpose.

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 reservoir structure sufficient to store the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-12216.

12. The proposed change would not result in enlargement of the right.

13. The proposed change would not result in injury to other water rights.

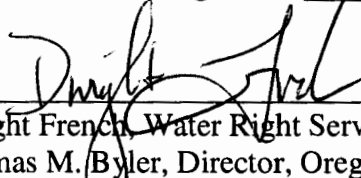
Determination and Proposed Action

The change in character of use proposed in Transfer Application T-12216 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-12216 is approved, the final order will include the following:

1. *The change in character of use proposed in Transfer Application T-12216 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 69327 and any related decree.*
3. *Water right Certificate 69327 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 diversion (new and existing).*
 - 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 meter or measuring device; provided however, where the meter or measuring device is 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, 2018**. 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 13 day of April, 2016.


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

This Preliminary Determination was prepared by a Reimbursement Authority Contractor and reviewed by Department Staff. If you have questions about the information in this document, you may contact Tracy Fox at 503 986-0827 or Tracy.L.Fox@ wrd.state.or.us.

Protests should be addressed to the Water Rights Services Division, Oregon Water Resources Department, 725 Summer Street, Suite A, Salem, OR 97301-1266.