



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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June 10, 2016

METOLIUS MEADOWS PROPERTY
OWNERS ASSOCIATION INC.
PO BOX 120
CAMP SHERMAN, OR 97730-0120

SUBJECT: Water Right Transfer Application T-12290

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12290. 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 Bend Bulletin 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 503-986-0890 or Sarah.A.Henderson@wrdd.state.or.us if I may be of assistance.

Sincerely,

Sarah Henderson
Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-12290
Jeremy T. Giffin, District 11 Watermaster (*via e-mail*)
Schroeder Law Offices Pc, Agent for the applicant (*via e-mail*)
Bruce Estes, CWRE #1 (*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-12290, Jefferson County) **PROPOSING APPROVAL OF A**
) **CHANGE IN CHARACTER OF USE**

Authority

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

Applicant

**METOLIUS MEADOWS PROPERTY
OWNERS ASSOCIATION INC.
PO BOX 120
CAMP SHERMAN, OR 97730-0120**

Findings of Fact

1. On March 2, 2016, METOLIUS MEADOWS PROPERTY OWNERS ASSOCIATION INC. filed an application to change the character of use under Certificate 91211. The Department assigned the application number T-12290.
2. Notice of the application for transfer was published on March 15, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 2, 2016, the Department contacted the applicant to request additional information needed to continue processing the application.
4. In response to the Department’s May 2, 2016 communication, the applicant clarified that Metolius Meadows Property Owners Association, Inc. meets the definition of a municipality under ORS 540.510(3(b)).
5. The applicant submitted evidence that it is a corporation other than a public corporation created for the purpose of operating a water supply system and therefore meets the definition of a Quasi-Municipal entity.
6. On May 16, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12290 to the applicant. The draft Preliminary

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.

Determination cover letter set forth a deadline of June 15, 2016, for the applicant to respond. 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.

7. The right to be transferred is as follows:

Certificate: 91211 in the name of METOLIUS MEADOWS PROPERTY OWNERS ASSOCIATION INC. (perfected under Permit G-5218)
Use: GROUP DOMESTIC
Priority Date: MAY 16, 1973
Rate: 0.89 CUBIC FOOT PER SECOND (CFS) further limited to no more than 0.55 cfs from each well.
Source: TWO WELLS within the METOLIUS RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	9 E	WM	16	SW SE	WELL 1 - 850 FEET NORTH AND 1410 FEET WEST FROM THE SE CORNER OF SECTION 16
13 S	9 E	WM	16	SW SE	WELL 2 - 640 FEET NORTH AND 2350 FEET WEST FROM THE SE CORNER OF SECTION 16

Authorized Place of Use:

					Additional Place of Use Information	
Twp	Rng	Mer	Sec	Q-Q	Map Number	Tax Lots
13 S	9 E	WM	16	SE NE	13.9.16AD	100, 400, 500, 600, 700, 800, 900, 1000, 1100, 1200, 1300, 1400, 1500, 1600, 1700, 1800, 1900, 2000, 2100, 2200, 2300, 2400, 2500, 2600, 2700, 2800, 2900, and 3000
13 S	9 E	WM	16	SW NE	13.9.16AD	1300, 1400 and 1900
13 S	9 E	WM	16	SE NE	13.9.16DA	100
13 S	9 E	WM	16	NE SE	13.9.16DA	100, 300, 400, 500, 600, 700, 800, 900, 1000, 1100, 1200, 1300, 1400, 1500, 1600, 1700, 1800, 1900, 2000, 2100, 2200, 2300, 2400, 2500, 2600, 2900, 3000, 3100, 3200, 3300, 3400, 3500, 3600, 3700 and 3800
13 S	9 E	WM	16	NW SE	13.9.16DA	2600 and 2700
13 S	9 E	WM	16	SW SE	13.9.16DA	2600 and 2700
13 S	9 E	WM	16	SE SE	13.9.16DA	2300, 2400, 2500, 2600, 2800, 2900 and 3000
13 S	9 E	WM	16	NE SE	13.9.16DB	600, 700, 2100, 2200, 2300, 2400
13 S	9 E	WM	16	NW SE	13.9.16DB	201, 202, 600, 700, 800, 900, 1000, 1100, 1200, 1300, 1400, 1500, 1800, 1900, 2000, 2100, 2200, 2600, 2700, 2800, 2900, 3000, 3100 and 3200
13 S	9 E	WM	16	SW SE	13.9.16DB	1500, 1600, 1700 and 1800
13 S	9 E	WM	16	SW SE	13.9.16DC	100, 200, 300, 400, 500, 600, 700, 800, 900, 1300, 1400, 1500, 1600, 1700, 2000, 2200, 2300, 2400, 2500, 2600, 2700, 2800, 2900, 3100, 3200, 3300, 3400, 3500, 3600, 3700, 3800, 3900, 4000, 4100, 4200, 4300, 4400, 4500, 4600, 4700, 4800, 5000, 5100, 5200 and 5300
13 S	9 E	WM	16	SE SE	13.9.16DC	2700, 2800, 2900, 3000, 4600, 4700, 4800 and 4900

13 S	9 E	WM	16	NE SE	13.9.16DD	3900
13 S	9 E	WM	16	SW SE	13.9.16DD	500, 600 and 700
13 S	9 E	WM	16	SE SE	13.9.16DD	200, 300, 400, 500, 1000, 1300, 1400, 1700, 2000, 2100, 2600, 2601, 2700, 2800, 2900, 3000 and 3900

8. Transfer Application T-12290 proposes to change the character of use to QUASI-MUNICIPAL

Transfer Review Criteria (OAR 690-380-4010)

9. 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.
10. A water 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-12290.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Determination and Proposed Action


The change in character of use proposed in Transfer Application T-12290 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-12290 is approved, the final order will include the following:

1. *The change in character of use proposed in Transfer Application T-12290 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 91211 and any related decree.*
3. *Water right Certificate 91211 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 existing point of appropriation.*
 - 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. *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 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 10 day of June 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. If you have questions about the information in this document, you may reach Sarah Henderson at 503-986-0890 or Sarah.A.Henderson@wrdd.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.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act, 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>