



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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July 1, 2016

VIA E-MAIL

MARTIN I. HOWARD
4139 SE PAULINA HWY
PRINEVILLE, OR 97754
mhoward@crestviewcable.com

SUBJECT: Water Right Transfer Application T-12273

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12273. 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 503-986-0827 or Tracy.L.Fox@ wrd.or.us if I may be of assistance.

Sincerely,

Ms. Tracy Fox
Transfer Specialist
Transfer and Conservation Section

cc: T-12273
Jeremy T. Giffin, District 11 Watermaster (via e-mail)
Erik J. Huffman, CWRE #70814 (via e-mail)

enclosures

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12273, Crook County)	PROPOSING APPROVAL OF A
)	CHANGE IN POINT OF
)	APPROPRIATION

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

MARTIN I. HOWARD
4139 SE PAULINA HWY
PRINEVILLE, OR 97754

Findings of Fact

1. On February 9, 2016, MARTIN I. HOWARD filed an application for an additional point of appropriation under Certificate 63679. The Department assigned the application number T-12273.
2. Notice of the application for transfer was published on February 16, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 28, 2016, the Department contacted the applicant by email regarding the deficiencies. The deficiencies being that the Land Use Form, as required under OAR 690-380-3000(19), was not provided to the Department with the application. In addition, the application included a discrepancy between the coordinates for the proposed well shown on the transfer map as compared with the coordinates given in the application.
4. On May 3, 2016, the Department received an approved Land Use Information Form and a revised section of the application providing clarification of the intended coordinates of the proposed well. These resolved the deficiencies.
5. On May 5, 2016, the Department contacted the applicant to obtain clarification of whether the transfer is actually an additional point of appropriation or a change in point of appropriation.
6. On May 10, 2016, the applicant submitted a revised section of the application providing clarification that the applicant is proposing a change in point of appropriation.

7. On June 16, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12273 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 18, 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

8. The portion of the right to be transferred is as follows:

Certificate: 63679 in the name of MARTIN I. HOWARD (perfected under Permit G-9498)

Use: IRRIGATING 2.8 ACRES

Priority Date: AUGUST 31, 1981

Rate: 0.04 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be 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 in the CROOKED RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	16 E	WM	11	NW SW	1630 FEET NORTH AND 560 FEET EAST FROM THE SW CORNER OF SECTION 11

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	16 E	WM	11	NW SW	2.8

9. Transfer Application T-12273 proposes to move the authorized point of appropriation approximately 160 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	16 E	WM	11	NW SW	1518 FEET NORTH AND 691 FEET EAST FROM THE SW CORNER OF SECTION 11

Transfer Review Criteria (OAR 690-380-4010)

10. Water has been used within the last five years prior to the submittal of Transfer Application T-12273 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 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-12273.

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.
14. All other application requirements are met.

Determination and Proposed Action

The change in point of appropriation proposed in Transfer Application T-12273 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-12273 is approved, the final order will include the following:

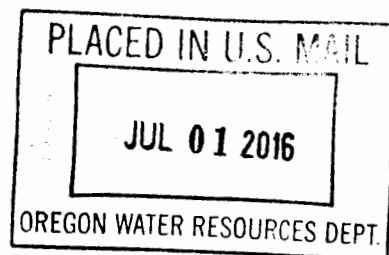
1. *The change in point of appropriation proposed in Transfer Application T-12273 is approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 63679 and any related decree.*
3. *Water right Certificate 63679 is cancelled. A new certificate will be issued describing that portion 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 point of appropriation.*
5. *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 appropriation.*
 - 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.*
6. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
7. *The former place of use of the transferred right shall no longer receive water under the right.*
8. *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.*

9. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 29 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 and reviewed by Tracy Fox. If you have questions about the information in this document, you may reach Tracy at 503 986-0827 or Tracy.L.Fox@wrdd.state.or.us.

Protests should be addressed to the attention of Water Rights Services 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>