



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

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September 13, 2016

VIA E-MAIL

DAWN RAINRABBIT PRESENT

PO BOX 351

SELMA, OR 97538

dawnpresent@frontier.com

SUBJECT: Water Right Transfer Application T-12325

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12325. 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@wrd.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst

Transfer and Conservation Section

cc: Transfer Application file T-12325

Kathy Smith, Watermaster 14 District (*via e-mail*)

Gordon R. Lyford, CWRE for the applicant (*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-12325, Josephine County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACE OF USE AND A
	)	PARTIAL RE-DESCRIPTION OF A
	)	WATER RIGHT

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

DAWN RAINRABBIT PRESENT
PO BOX 351
SELMA, OR 97538
dawnpresent@frontier.com

Findings of Fact

1. On March 30, 2016, DAWN RAINRABBIT PRESENT filed an application to change the place of use and requested a partial re-description of a water right under Certificate 66862. The Department assigned the application number T-12325.
2. Notice of the application for transfer was published on April 12, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 27, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12325 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 27, 2016, for the applicant to respond. The applicant requested that the completion date be extended to October 1, 2021 and for 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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4. The portion of the right to be transferred is as follows:

Certificate: 66862 in the name of DAWN RAINRABBIT AND SUMA SHAAZMUNDA, (perfected under Permit G-6242)
Use: IRRIGATION OF 0.9 ACRE
Priority Date: OCTOBER 18, 1974
Rate: 0.014 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) and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: ONE SUMP within the MONTGOMERY CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
38 S	8 W	WM	22	SE NW	2230 FEET SOUTH AND 2140 FEET EAST FROM THE NW CORNER OF SECTION 22

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
38 S	8 W	WM	22	SE NW	521	0.9

5. Certificate 66862 describes the location of the point of diversion as listed above, however information is available from the survey taken by the CWRE and USGS Quadrangle Topographical maps indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
38 S	8 W	WM	22	SE NW	510 FEET NORTH AND 830 FEET WEST FROM THE CENTER OF SECTION 22.

6. Transfer Application T-12325 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
38 S	8 W	WM	22	SE NW	521	0.4
38 S	8 W	WM	22	SE NW	524	0.5

Transfer Review Criteria (OAR 690-380-4010)

7. 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.
8. 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-12325.
9. The proposed change would not result in enlargement of the right.

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

11. All other application requirements are met.

Determination and Proposed Action

The change in place of use and partial re-description of a water right proposed in Transfer Application T-12325 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-12325 is approved, the final order will include the following:

- 1. The change in place of use and partial re-description of a water right proposed in Transfer Application T-12325 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 66862 and any related decree.*
- 3. Water right Certificate 66862 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 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 appropriation (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. The former place of use of the transferred right shall no longer receive water under the right.*
- 6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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.*

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

Dated at Salem, Oregon this 15 day of September, 2016.



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 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.