



Oregon

Kate Brown, Governor

Water Resources Department

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November 1, 2016

PUEBLO MOUNTAIN LAND COMPANY
ATTN: DUANE GRANT
707 E 600 N
RUPERT ID 83350

SUBJECT: Water Right Transfer Application T-12255

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12255. 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 Burns Times Herald 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 503-986-0886 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 T-12255
JR Johnson, Watermaster 10 District (*via e-mail*)
Nancy Rorick, Agent/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-12255, Harney County)	PROPOSING APPROVAL OF
)	CHANGES IN PLACES OF USE,
)	ADDITIONAL POINTS OF
)	APPROPRIATION, CHANGES IN
)	POINTS OF APPROPRIATION,
)	CHANGES IN POINTS OF
)	DIVERSION, AND A PARTIAL
)	CANCELLATION 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 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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

PUEBLO MOUNTAIN LAND COMPANY
ATTN: DUANE GRANT
707 E 600 N
RUPERT, ID 83350

Findings of Fact

1. On January 22, 2016, PUEBLO MOUNTAIN LAND COMPANY filed an application for additional points of appropriation and changes in place of use under Certificates 44824 and 51579, changes in place of use and a change in point of appropriation under Certificate 91126, changes in place of use and change in points of diversion under Certificates 894 and 1905, and to change the places of use under adjudicated, un-certificated rights (Trout Creek, Harney County, Decree Volume 3, Page 89, Trout Creek, Harney County, Amended Decree 1917, and Transfer Application D-26, Special Order Volume 1, Page 211). The Department assigned the application number T-12255.
2. Notice of the application for transfer was published on February 2, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

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.

3. On July 15, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12255 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 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.

4. The first right to be transferred is as follows:

Decree: Trout Creek, Harney County, in the name of MELVIN DOAN (Volume 3, Page 89)
Use: IRRIGATION OF 80.0 ACRES
Priority Date: 1897
Rate: 2.0 CUBIC FEET PER SECOND (SUBJECT TO THE PROVISIONS OF THE TROUT CREEK, HARNEY COUNTY DECREE, AMENDED 1917)
Period of Use: MARCH 15 THROUGH OCTOBER 1
Sources: TROUT CREEK AND WILLOW CREEK, 1/2 FROM EACH, tributaries to ALVORD LAKE

Authorized Point of Diversion: Not described in Decree.

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
38 S	35 E	WM	33	SE SW		40.0
39 S	35 E	WM	4	NE NW	3	35.0
39 S	35 E	WM	4	SE NW		5.0
Total						80.0

5. Transfer Application T-12255 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
38 S	35 E	WM	33	NE SW		8.2
38 S	35 E	WM	33	SE SW		34.5
38 S	35 E	WM	33	SW SE		4.3
39 S	35 E	WM	4	NW NE	2	23.4
39 S	35 E	WM	4	SW NE		6.8
39 S	35 E	WM	4	NE NW	3	2.8
Total						80.0

6. The second right to be transferred is as follows:

Decree: Trout Creek, Harney County, in the name of MELVIN DOAN (Volume 3, Page 89)
Use: IRRIGATION OF 120.0 ACRES
Priority Date: 1899
Rate: 3.0 CUBIC FEET PER SECOND (SUBJECT TO THE PROVISIONS OF THE TROUT CREEK, HARNEY COUNTY DECREE, AMENDED 1917)
Period of Use: MARCH 15 THROUGH OCTOBER 1
Sources: TROUT CREEK AND WILLOW CREEK, 1/2 FROM EACH, tributaries to ALVORD LAKE

Authorized Point of Diversion: Not described in Decree.

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
38 S	35 E	WM	33	NE SW		23.9
38 S	35 E	WM	33	NW SE		26.0
38 S	35 E	WM	33	SW SE		32.0
39 S	35 E	WM	4	NW NE	2	38.1
Total						120.0

7. Transfer Application T-12255 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
38 S	35 E	WM	33	NE SW		22.9
38 S	35 E	WM	33	SE SW		0.1
38 S	35 E	WM	33	NE SE		18.7
39 S	35 E	WM	33	NW SE		40.1
39 S	35 E	WM	33	SW SE		34.6
39 S	36 E	WM	4	NW NE	2	3.6
Total						120.0

8. The third right to be transferred is as follows:

Decree: Trout Creek, Harney County, in the name of MELVIN DOAN (Volume 3, Page 89)
Use: IRRIGATION OF 75.0 ACRES
Priority Date: 1902
Rate: 1.875 CUBIC FEET PER SECOND (SUBJECT TO THE PROVISIONS OF THE TROUT CREEK, HARNEY COUNTY DECREE, AMENDED 1917)
Period of Use: MARCH 15 THROUGH OCTOBER 1
Sources: TROUT CREEK AND WILLOW CREEK, 1/2 FROM EACH, tributaries to ALVORD LAKE

Authorized Point of Diversion: Not described in Decree.

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	4	SW NW	18.7
39 S	35 E	WM	4	NW SW	32.0
39 S	35 E	WM	4	SW SW	24.3
Total					75.0

9. Transfer Application T-12255 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	4	NE SW	6.3
39 S	35 E	WM	4	NW SW	0.3
39 S	35 E	WM	4	SW SW	22.5
39 S	35 E	WM	4	SE SW	36.7
39 S	35 E	WM	4	NW SE	2.4
39 S	35 E	WM	4	SW SE	6.8
Total					75.0

10. The fourth right to be transferred is as follows:

Decree: Trout Creek, Harney County, in the name of MELVIN M. DOAN
(Amended, 1917)

Use: IRRIGATION OF 74.15 ACRES

Priority Date: 1897

Rate: 1.854 CUBIC FEET PER SECOND (SUBJECT TO THE PROVISIONS
OF THE TROUT CREEK, HARNEY COUNTY DECREE, AMENDED
1917)

Period of Use: MARCH 15 THROUGH OCTOBER 1

Source: WILLOW CREEK, tributary to TROUT CREEK

Authorized Point of Diversion: Not described in Decree.

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
39 S	35 E	WM	4	NE NW	3	4.55
39 S	35 E	WM	4	SE NW		35.00
39 S	35 E	WM	4	NE SW		34.60
Total						74.15

11. Transfer Application T-12255 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
39 S	35 E	WM	4	NW NE	2	3.63
39 S	35 E	WM	4	SW NE		2.87
39 S	35 E	WM	4	NE NW	3	19.01
39 S	35 E	WM	4	SE NW		35.16
39 S	35 E	WM	4	NE SW		5.64
39 S	35 E	WM	4	NW SW		3.57
39 S	35 E	WM	4	SW SW		4.27
TOTAL						74.15

12. The fifth right to be transferred is as follows:

Transfer: D-26, in the name of ROSE E. DOAN (confirmed by Trout Creek, Harney County Decree)
Use: IRRIGATION OF 40.0 ACRES
Priority Date: 1884
Rate: 1.0 CUBIC FEET PER SECOND (SUBJECT TO THE PROVISIONS OF THE TROUT CREEK, HARNEY COUNTY DECREE)
Period of Use: MARCH 15 THROUGH OCTOBER 1
Source: LITTLE COTTONWOOD CREEK, tributary to WILLOW CREEK

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	4	SE SW	40.0

13. Transfer Application T-12255 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	4	SW NE	30.0
39 S	35 E	WM	4	SE NW	0.1
39 S	35 E	WM	4	NE SW	0.7
39 S	35 E	WM	4	NW SE	9.2
Total					40.0

14. The sixth right to be transferred is as follows:

Certificate: 894, in the name of ROSIE DOAN (perfected under Permit S-526)
Use: IRRIGATION OF 75.0 ACRES
Priority Date: DECEMBER 15, 1910
Rate: 0.94 CUBIC FEET PER SECOND.
Source: WILLOW CREEK, tributary to TROUT CREEK

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	4	SW NE	35.0
39 S	35 E	WM	4	SE SW	25.0
39 S	35 E	WM	4	NW SE	5.0
39 S	35 E	WM	4	SW SE	10.0
Total					75.0

15. Certificate 894 does not describe the location of the authorized point of diversion, however information is available from Permit No. S-526 indicating that the authorized point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	35 E	WM	4	SW SW	200 FEET EAST OF THE SE CORNER OF SECTION 5

16. Transfer Application T-12255 proposes to move the authorized point of diversion approximately 380 feet to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	35 E	WM	9	NW NW	POD 3 - 95 FEET SOUTH AND 575 FEET EAST FROM THE NW CORNER OF SECTION 9.

17. Transfer Application T-12255 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	4	SW NE	22.9
39 S	35 E	WM	4	NE SW	0.1
39 S	35 E	WM	4	NW SW	3.1
39 S	35 E	WM	4	NW SE	2.1
39 S	35 E	WM	9	NE NW	24.9
39 S	35 E	WM	9	NW NW	17.7
39 S	35 E	WM	9	SW NW	1.9
39 S	35 E	WM	9	SE NW	2.3
Total					75.0

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

Certificate: 1905, in the name of AURA Z. BONHAM (perfected under Permits S-2929 and S-3403)
Use: IRRIGATION OF 40.0 ACRES
Priority Date: MAY 31, 1917
Rate: 0.50 CUBIC FEET PER SECOND
Limit/Duty: The use for irrigation purposes hereunder shall be limited to ONE-EIGHTIETH of one cubic foot per second for each acre irrigated, or the equivalent for in case of rotation.
Source: WILLOW CREEK, tributary to TROUT CREEK

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	4	NE NW	20.0
39 S	35 E	WM	4	NW NW	20.0
Total					40.0

19. Certificate 1905 does not describe the location of the authorized point of diversion, however information is available from Permit No. S-2929 indicating that the authorized point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	35 E	WM	9	SW NW	ABOUT 100 RODS FROM NW SECTION CORNER OF SECTION 9, BEARING SOUTH AND EAST TO ABOUT THE CENTER OF THE SW ¼ NW ¼ OF SECTION 9

20. Transfer Application T-12255 proposes to move the authorized point of diversion approximately 1450 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	35 E	WM	9	NW NW	POD 3 - 95 FEET SOUTH AND 575 FEET EAST FROM THE NW CORNER OF SECTION 9

21. Transfer Application T-12255 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	9	NE NW	0.4
39 S	35 E	WM	9	SW NW	2.1
39 S	35 E	WM	9	SE NW	33.4
39 S	35 E	WM	9	NE SW	4.1
Total					40.0

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

Certificate: 44824 in the name of RONALD MCLEAN (perfected under Permit G-3912)
Use: SUPPLEMENTAL IRRIGATION OF 137.7 ACRES
Priority Date: DECEMBER 14, 1967
Rate: 1.72 CUBIC FEET 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, 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, and shall be further limited to appropriation of water only to the extent that it does not impair or substantially interfere with existing surface water rights of others.
Source: A WELL within the WILLOW CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	35 E	WM	4	SW SW	30 FEET NORTH AND 480 FEET EAST FROM THE SW CORNER OF SECTION 4

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
39 S	35 E	WM	4	NE NW	3	39.6
39 S	35 E	WM	4	SW NW		13.8
39 S	35 E	WM	4	SE NW		40.0
39 S	35 E	WM	4	NE SW		12.7
39 S	35 E	WM	4	NW SW		20.4
39 S	35 E	WM	4	SW SW		11.2
Total						137.7

23. Transfer Application T-12255 proposes additional points of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances	Distance from Authorized POA (feet) (approx.)
39 S	35 E	WM	4	NE NW	3	WELL DW-1 - 385 FEET SOUTH AND 1670 FEET EAST FROM THE NW CORNER OF SECTION 4	4925.0
39 S	35 E	WM	4	NE SW		WELL DW-2 - 2455 FEET NORTH AND 1710 FEET EAST FROM THE SW CORNER OF SECTION 4.	2700.0
39 S	35 E	WM	9	NE SW		WELL DW-4 - 2510 FEET NORTH AND 2630 FEET EAST FROM THE SW CORNER OF SECTION 9	3610.0

24. Transfer Application T-12255 also proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	4	NE SW	1.9
39 S	35 E	WM	4	NW SW	6.8
39 S	35 E	WM	4	SW SW	26.5
39 S	35 E	WM	4	SE SW	24.7
39 S	35 E	WM	9	NE NW	25.4
39 S	35 E	WM	9	NW NW	17.7
39 S	35 E	WM	9	SW NW	3.0
39 S	35 E	WM	9	SE NW	31.2
39 S	35 E	WM	9	NE SW	0.5
Total					137.7

25. The ninth right to be transferred is as follows:

Certificate: 51579 in the name of HERBERT A. AND MARY L. DIXON (perfected under Permit G-7762)

Use: SUPPLEMENTAL IRRIGATION OF 26.0 ACRES

Priority Date: MARCH 30, 1977

Rate: 0.33 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, 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, within the WILLOW CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	35 E	WM	4	SW SW	30 FEET NORTH AND 480 FEET EAST FROM THE SW CORNER OF SECTION 4

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	4	NE SW	2.0
39 S	35 E	WM	4	NW SW	3.5
39 S	35 E	WM	4	SW SW	13.0
39 S	35 E	WM	4	SE SW	7.5
Total					26.0

26. Transfer Application T-12255 proposes additional points of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances	Distance from Authorized POA (feet) (approx.)
39 S	35 E	WM	4	NE NW	3	WELL DW-1 - 385 FEET SOUTH AND 1670 FEET EAST FROM THE NW CORNER OF SECTION 4	4925.0
39 S	35 E	WM	4	NE SW		WELL DW-2 - 2455 FEET NORTH AND 1710 FEET EAST FROM THE SW CORNER OF SECTION 4.	2700.0
39 S	35 E	WM	9	NE SW		WELL DW-4 - 2510 FEET NORTH AND 2630 FEET EAST FROM THE SW CORNER OF SECTION 9	3610.0

27. Transfer Application T-12255 also proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	4	NE SW	4.7
39 S	35 E	WM	4	SE SW	12.1
39 S	35 E	WM	4	NW SE	2.4
39 S	35 E	WM	4	SW SE	6.8
Total					26.0

28. The tenth right to be transferred is as follows:

Certificate: 91126 in the name of PUEBLO MOUNTAIN LAND CO. LLC (perfected under Permit G-12279)

Use: IRRIGATION OF 79.2 ACRES

Priority Date: OCTOBER 31, 1994

Rate: 0.99 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation under this right, 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: A WELL within the TROUT CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	35 E	WM	9	NW SE	2672 FEET NORTH AND 3899 FEET EAST FROM THE SW CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	9	NE SW	39.7
39 S	35 E	WM	9	NW SW	39.5
Total					79.2

29. Transfer Application T-12255 proposes to change the point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances	Distance from Authorized POA (feet) (approx.)
39 S	35 E	WM	4	NE NW	3	WELL DW-1 - 385 FEET SOUTH AND 1670 FEET EAST FROM THE NW CORNER OF SECTION 4	7900.0
39 S	35 E	WM	4	NE SW		WELL DW-2 - 2455 FEET NORTH AND 1710 FEET EAST FROM THE SW CORNER OF SECTION 4.	5550.0
39 S	35 E	WM	4	SW SW		WELL DW-3 - 50 FEET NORTH AND 490 FEET EAST FROM THE SW CORNER OF SECTION 4	4400.0
39 S	35 E	WM	9	NE SW		WELL DW-4 - 2510 FEET NORTH AND 2630 FEET EAST FROM THE SW CORNER OF SECTION 9	1285.0

30. Transfer Application T-12255 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	9	NW NW	0.2
39 S	35 E	WM	9	SW NW	30.4
39 S	35 E	WM	9	SE NW	4.8
39 S	35 E	WM	9	NE SW	14.7
39 S	35 E	WM	9	NW SW	29.1
Total					79.2

31. The Oregon Department of Fish and Wildlife has determined that the diversion is not currently equipped with an appropriate fish screen, but a fish screen may be required in the future at the new point of diversion to prevent fish from entering the diversion.

Transfer Review Criteria [OAR 690-380-4010(2)]

32. Water has been used according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

33. Pumps, pipelines, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-12255.

- 34. The proposed changes would not result in enlargement of the rights.
- 35. The proposed changes would not result in injury to other water rights.

Partial Cancellation of a Water Right

36. On October 11, 2016, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from Pueblo Mountain Land Co., LLC. The right to be cancelled is as follows:

Decree: Trout Creek, Harney County, in the name of MELVIN M. DOAN
(Amended, 1917)
Use: IRRIGATION OF 5.4 ACRES
Priority Date: 1897
Rate: 0.135 CUBIC FOOT PER SECOND (SUBJECT TO THE PROVISIONS OF THE TROUT CREEK, HARNEY COUNTY DECREE, AMENDED 1917)
Period of Use: MARCH 15 THROUGH OCTOBER 1
Source: WILLOW CREEK, tributary to TROUT CREEK

Authorized Point of Diversion: Not described in Decree.

Authorized Place of Use to be Cancelled:

Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	4	NE SW	5.4

Determination and Proposed Action

The additional points of appropriation, changes in places of use, change in points of diversion, and change in points of appropriation, proposed in Transfer Application T-12255 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the abandoned right should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved and the portion of the abandoned right will be cancelled.

If Transfer Application T-12255 is approved, the final order will include the following:

1. *The additional points of appropriation, changes in places of use, change in points of diversion, and change in points of appropriation proposed in Transfer Application T-12255 are approved. The portion of the right that has been abandoned is cancelled.*
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 the Trout Creek, Harney County decree, Volume 3, Page 89, Trout Creek, Harney County decree amended 1917, Transfer D-26, Water Right Certificates 894, 1905, 44824, 51579, and 91126.*
3. *The Trout Creek, Harney County decree Volume 3, Page 89 contains descriptions of the rights to be transferred; the rights described and/or identified under the name Melvin M. Doan, are cancelled.*

4. *The Trout Creek, Harney County decree, amended 1917, contains a description of the right to be transferred; the right described and/or identified under the name Melvin M. Doan, is cancelled.*
5. *Transfer D-26, approved August 26, 1925 and recorded at Special Order Volume 1, Page 211, contains the right described and/or identified under the name of Rose E. Doan, is cancelled.*
6. *Water right Certificates 894, 1905, 44824, 51579, and 91126 are cancelled. New certificates will be issued describing those portions of rights described by Certificates 1905 and 44824 not affected by this transfer.*
7. *The quantity of water diverted at the new points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.*
8. *The quantity of water diverted at the proposed additional points of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
9. *The quantity of water diverted at the proposed points of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.*
10. *Water use measurement conditions:*
 - a. ***Before water use may begin** under this order, the water user shall install totalizing flow meters, or, with prior approval of the Director, another suitable measuring device, at each point of diversion/appropriation (new and existing).*
 - 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.*
11. *The Oregon Department of Fish and Wildlife (ODFW) may require the water user to install an approved fish screen at the new point of diversion within one year after receiving written notification that a fish screen is required. Once installed the water user shall maintain and operate the fish screen at the new point of diversion according to ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.*
12. *The former places of use of the transferred rights shall no longer receive water under the rights.*

13. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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.
14. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 3 day of November, 2016.



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

This Preliminary Determination was prepared by Kelly Starnes. If you have questions about the information in this document, you may reach me at 503-986-0886 or Patrick.K.Starnes@wrds.state.or.us.