



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
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December 12, 2016

VIA E-MAIL

THE CAPRA COMPANY LLC
PO BOX 2340
WINDSOR, CA 95492

SUBJECT: Water Right Transfer Application T-12373

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12373. 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 Polk County Itemizer Observer 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@oregon.gov if I may be of assistance.

Sincerely,

Sarah Henderson

Sarah Henderson
Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-12373
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
John M Lambie, Agent 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-12373, Polk 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

THE CAPRA COMPANY LLC
PO BOX 2340
WINDSOR, CA 95492

Findings of Fact

1. On May 9, 2016, THE CAPRA COMPANY LLC filed an application to change the character of use under Certificate 39282. The Department assigned the application number T-12373.
2. Notice of the application for transfer was published on May 17, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 2, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12373 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 2, 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 right to be transferred is as follows:

Certificate: 39282 in the name of CARL STEVENS (perfected under Permit R-5075)
Use: STOCK
Priority Date: SEPTEMBER 5, 1967
Rate: 1.0 ACRE-FOOT
Limit/Duty: The amount of water entitled to be stored each year under such right, for the purposes afore-said, shall not exceed 1.0 acre foot.

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.

Source: AN UNNAMED STREAM, tributary of MUD SLOUGH (Rickreall Creek) in Stevens Reservoir

The reservoir is located in:

Twp	Rng	Mer	Sec	Q-Q
7 S	4 W	WM	10	SE NW

5. Transfer Application T-12373 proposes to change the character of use to multi-purpose storage.
6. Certificate 39282 does not specify the season of use. However, the Willamette Basin Program establishes the storage season for the area as November 1 to June 30.

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

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. The water delivery system and storage facility were present within the five-year period prior to submittal of Transfer Application T-12373.
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.

Determination and Proposed Action

The change in character of use proposed in Transfer Application T-12373 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.

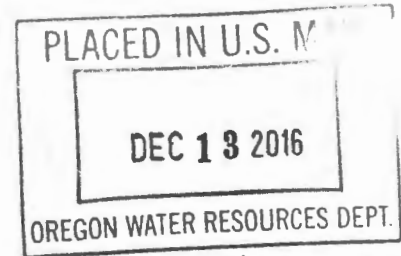
If Transfer Application T-12373 is approved, the final order will include the following:

1. *The change in character of use proposed in Transfer Application T-12373 is approved.*
2. *The storage season for this transfer application is November 1 to June 30.*
3. *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 39282 and any related decree.*
4. *Water right Certificate 39282 is cancelled.*
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 12 day of December, 2016.


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



This Preliminary Determination was prepared by Sarah Henderson. If you have questions about the information in this document, you may reach me at 503-986-0890 or Sarah.A.Henderson@oregon.gov.

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>