



Oregon

Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
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February 27, 2017

WILLOW CREEK DAIRY
PO BOX 1210
BOARDMAN OR 97818

SUBJECT: Water Right Transfer Application T-12247

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12247. 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@oregon.gov if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Program Analyst
Transfer and Conservation Section

cc: Transfer Application T-12247
Greg Silbernagel, Watermaster 5 District (*via e-mail*)
William I. Porfily, Agent for the applicant (*via e-mail*)
Sage Hollow Ranch, LLC, Receiving Landowner (*via e-mail*)
Dale G. VanSchoiack, CWRE #333 (*via e-mail*)
David E. Filippi, Stoel Rives LLP, Representing Commenters

encs.

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

Certificate: 80062 in the names of CONNECTICUT GENERAL LIFE INSURANCE COMPANY AND FIRST INTERSTATE BANK OF OREGON, c/o BOB O'ROURKE. (perfected under Permit S-37150)

Use: IRRIGATION OF 350.2 ACRES

Priority Date: JULY 25, 1973

Rate: 5.48 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, is limited to ONE-FORTIETH 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 4.5 acre-feet for each acre for each acre irrigated during the irrigation season of each year.

Source: COLUMBIA RIVER, a tributary of the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	15	SW NW	7.5
3 N	26 E	WM	15	NW SW	7.2
3 N	26 E	WM	15	SW SW	9.0
3 N	26 E	WM	16	SW NE	31.0
3 N	26 E	WM	16	SE NE	36.8
3 N	26 E	WM	16	SW NW	5.0
3 N	26 E	WM	16	SE NW	34.6
3 N	26 E	WM	16	NE SW	36.7
3 N	26 E	WM	16	NW SW	7.2
3 N	26 E	WM	16	SW SW	6.2
3 N	26 E	WM	16	SE SW	33.8
3 N	26 E	WM	16	NE SE	33.8
3 N	26 E	WM	16	NW SE	31.3
3 N	26 E	WM	16	SW SE	32.1
3 N	26 E	WM	16	SE SE	38.0
Total					350.2

7. Transfer Application T-12247 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 N	26 E	WM	4	NE NE	2	18.4
3 N	26 E	WM	4	NW NE	2	17.7
3 N	26 E	WM	4	SW NE	1	30.0
3 N	26 E	WM	4	SE NE	1	32.7
3 N	26 E	WM	4	NE NW	2	37.2
3 N	26 E	WM	4	NW NW	2	33.6
3 N	26 E	WM	4	SW NW	1	35.6
3 N	26 E	WM	4	SE NW	1	36.8
3 N	26 E	WM	4	NE SW		36.0
3 N	26 E	WM	4	NW SW		35.4
3 N	26 E	WM	4	SW SW		28.3
3 N	26 E	WM	4	NE SE		0.9
3 N	26 E	WM	4	NW SE		0.4
3 N	26 E	WM	4	SW SE		7.2
Total						350.2

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

Certificate: 86993 in the name of BOARDMAN TREE FARM, LLC (perfected under Permit S-37293)

Use: IRRIGATION OF 66.4 ACRES

Priority Date: FEBRUARY 7, 1974

Rate: 1.09 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, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: COLUMBIA RIVER, tributary to PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	15	NE NW	1.1
3 N	26 E	WM	15	SW NW	6.6
3 N	26 E	WM	15	SE NW	4.1
3 N	26 E	WM	15	NE SW	2.4
3 N	26 E	WM	15	NW SW	6.7
3 N	26 E	WM	15	SW SW	7.3
3 N	26 E	WM	15	SE SW	6.0
3 N	26 E	WM	15	SW SE	2.7
3 N	26 E	WM	22	NW NE	2.9
3 N	26 E	WM	22	SW NE	3.0
3 N	26 E	WM	22	NE NW	3.2
3 N	26 E	WM	22	NW NW	4.8
3 N	26 E	WM	22	SW NW	7.0
3 N	26 E	WM	22	SE NW	5.0
3 N	26 E	WM	22	NW SE	3.6
Total					66.4

9. Transfer Application T-12247 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	4	SW SW	7.0
3 N	26 E	WM	4	SE SW	36.8
3 N	26 E	WM	4	NE SE	22.6
Total					66.4

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

Certificate: 86992 in the name of BOARDMAN TREE FARM, LLC (perfected under Permit S-37150)
Use: IRRIGATION OF 86.4 ACRES
Priority Date: JULY 25, 1973
Rate: 1.35 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, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: COLUMBIA RIVER, tributary to PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 N	25 E	WM	2	NE NW	7	150 FEET SOUTH AND 2990 FEET WEST FROM THE NE CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	15	NW NW	2.4
3 N	26 E	WM	16	NE NE	0.6
3 N	26 E	WM	16	NW NE	1.8
3 N	26 E	WM	16	SW NE	5.4
3 N	26 E	WM	16	SE NE	2.0
3 N	26 E	WM	16	NE NW	0.8
3 N	26 E	WM	16	NW NW	2.3
3 N	26 E	WM	16	SW NW	6.0
3 N	26 E	WM	16	SE NW	5.2
3 N	26 E	WM	16	NE SW	3.0
3 N	26 E	WM	16	SW SW	1.6
3 N	26 E	WM	16	SE SW	4.2
3 N	26 E	WM	16	NE SE	5.2
3 N	26 E	WM	16	NW SE	7.4
3 N	26 E	WM	16	SW SE	6.5
3 N	26 E	WM	16	SE SE	1.2
3 N	26 E	WM	17	NE NE	1.5
3 N	26 E	WM	17	NW NE	1.0
3 N	26 E	WM	17	SW NE	2.0
3 N	26 E	WM	17	SE NE	2.4
3 N	26 E	WM	21	NE NE	4.4
3 N	26 E	WM	21	NW NE	6.4
3 N	26 E	WM	21	SW NE	6.2
3 N	26 E	WM	21	SE NE	0.5
3 N	26 E	WM	21	NE NW	1.2
3 N	26 E	WM	21	SE NW	5.2
Total					86.4

11. Transfer Application T-12247 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	26 E	WM	4	NE SE	1.3
3 N	26 E	WM	4	NW SE	23.6
3 N	26 E	WM	4	SW SE	27.4
3 N	26 E	WM	4	SE SE	34.1
Total					86.4

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

12. Water has been used within the last five years 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.
13. A pump, pipeline, and sprinkler system 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-12247.
14. The proposed changes would not result in enlargement of the rights.

15. The proposed changes would not result in injury to other water rights.

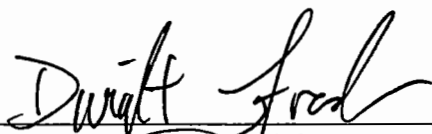
Determination and Proposed Action

The change in place of use proposed in Transfer Application T-12247 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-12247 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-12247 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 Certificates 80062, 86992, and 86993 and any related decree.*
3. *Water right Certificates 80063, 86992, and 86993 are cancelled. New certificates will be issued describing the portions of the rights not affected by this transfer.*
4. *The water user shall maintain all existing totalizing flowmeters and measurement devices.*
5. *The former place of use of the transferred rights shall no longer receive water under the rights.*
6. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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.*
7. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 24th day of February, 2017.



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

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>