



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

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February 21, 2017

VIA E-MAIL

FULL CIRCLE PROPERTIES LLC
7785 ROCK HILL LANE
CINCINNATI, OH 45243

SUBJECT: Water Right Transfer Application T-12291

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12291. 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 Grants Pass Courier 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 503-986-0806 or arla.l.heard@oregon.gov if I may be of assistance.

Sincerely,

Transfer Specialist
Transfer and Conservation Section

cc: T-12291
Kathy A. Smith, District 14 Watermaster (*via e-mail*)
James T. Hatfield, Agent for the applicant (*via e-mail*)
Clay Jordan, CWRE #431 (*via e-mail*)

7. The right to be transferred is as follows:

Certificate: 16320 in the name of FRANK BRYAN (confirmed by Rogue River Decree in Volume 4, at Page 1)
Use: IRRIGATION OF 48 ACRES AND DOMESTIC AND STOCK USE
Priority Date: 1872
Rate: 0.80 CUBIC FOOT PER SECOND
Source: WEST FORK WILLIAMS CREEK, tributary to WILLIAMS CREEK
Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Not specified in certificate					

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	7	NE NE	10.00
39 S	5 W	WM	8	NW NW	38.00

8. Certificate 16320 does not describe the location of the point of diversion, however information is available from applicant indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	7	SW SE	270 FEET NORTH AND 1770 FEET WEST FROM THE SE CORNER OF SECTION 7

9. Transfer Application T-12291 proposes an additional point of diversion approximately 1.2 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	7	NE NE	820 FEET SOUTH FROM THE NW CORNER OF SECTION 8

10. Transfer Application T-12291 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	7	NE NE	20.4
39 S	5 W	WM	7	SE NE	0.6
39 S	5 W	WM	8	NW NW	27.0
Total					48.0

11. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

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

12. Water has been used within the last five years. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.

13. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application
14. The proposed changes as conditioned would not result in enlargement of the right.
15. The proposed changes would not result in injury to other water rights.

Determination and Proposed Action

The point of diversion and change in place of use proposed in Transfer Application T-12291 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-12291 is approved, the final order will include the following:


1. *The additional point of diversion and change in place of use proposed in Transfer Application T-12291 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 16320 and any related decree.*
3. *Water right Certificate 16320 is cancelled.*
4. *The quantity of water diverted at the additional point of diversion together with that diverted at the original point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.*
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 diversion.*
 - b. *The water user shall maintain the meter(s) or measuring device(s) in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter(s) or measuring device(s); provided however, where the meter(s) or measuring device(s) is/are located within a private structure, the Watermaster shall request access upon reasonable notice.*
6. *Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.*

The water user shall operate and maintain the fish screen at the new point of diversion consistent with 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.

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 changes 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 21 day of February 2017.


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

This draft Preliminary Determination was prepared by Arla Heard. If you have any questions about the information in this document, you may reach me at 503-986-0806 or arla.l.heard@ wrd.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>