



Oregon
Kate Brown, Governor

Water Resources Department

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March 31, 2017

Applicant

GEORGE STROEMPLE
PO BOX 1810
LAKE OSWEGO, OR 97035
gstroemple@pacstar.com

Agent

SHONEE LANGFORD
SCHWABE, WILLIAMSON & WYATT
530 CENTER STREET NE, SUITE 400
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slangford@schwabe.com

SUBJECT: Water Right Transfer Application T-12573

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12573. 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 Jessica.L.Joye@oregon.gov or by phone at 503-986-0814, if I may be of assistance.

Sincerely,

Jessica Joye
Reimbursement Authority - Transfers
Transfer and Conservation Section

cc: T-12573
JR Johnson, District #10 Watermaster (via e-mail)
Steve Bruce, Skookum Water Associates, CWRE (via e-mail)

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12573, Harney County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACE 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.

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Findings of Fact

1. On January 19, 2017, GEORGE STROEMPLE filed an application to change the place of use under Certificates 88588 and 88589. The Department assigned the application number T-12573.
2. Notice of the application for transfer was published on January 31, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 22, 2017, the Department contacted Steven Bruce, Certified Water Right Examiner (CWRE) for the applicant, by phone for clarification of the conveyance system from the authorized points of diversion to the proposed place of use. On February 22, 2017, Steve Bruce sent an email assuring that a ditch system does exist at these authorized points of diversion that is able to convey water to the proposed place of use within Section 11 of T 35 S, R 33 E.
4. On February 27, 2017, the Department emailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12408 to the applicant and the applicant's agent. The draft Preliminary Determination cover letter set forth a deadline of March 28, 2017, for the applicant to respond.

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.

5. On March 25, 2017, the applicant requested to the Department that all three points of diversion (PODs 1, 2, and 3) be available for use on the entire proposed place of use, including the 13.7 acres in the SWSE and SESE of Section 11. The applicant also requested that the Department extend the completion date from October 1, 2018 to October 1, 2020. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided necessary information to demonstrate that the applicant is authorized to pursue the transfer.
6. The portion of the first right to be transferred is as follows:

Certificate: 88588 in the name of GEORGE STROEMPLE
(perfected under Permit S-43218)

Use: IRRIGATION of 88.2 ACRES

Priority Date: JUNE 27, 1978

Rate: 1.316 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation is limited to ONE-SIXTIETH 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: IRRIGATION SEASON

Source: WILDHORSE CREEK, a tributary of ALVORD LAKE

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
34 S	33 E	WM	34	SE SE		POD 1 - 1250 FEET NORTH AND 1060 FEET WEST FROM THE SE CORNER OF SECTION 34
35 S	33 E	WM	2	NW NW	4	POD 2 - 180 FEET SOUTH AND 830 FEET WEST FROM THE SE CORNER OF SECTION 34
35 S	33 E	WM	2	SE NW		POD 3 - 1750 FEET SOUTH AND 100 FEET WEST FROM THE SE CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
35 S	33 E	WM	2	SW NE		5.7
35 S	33 E	WM	2	NE NW	3	5.2
35 S	33 E	WM	2	SW NW		19.6
35 S	33 E	WM	2	SE NW		14.0
35 S	33 E	WM	2	NE SE		19.8
35 S	33 E	WM	2	NW SE		11.9
35 S	33 E	WM	2	SE SE		12.0
TOTAL						88.2

7. The application and map for Transfer T-12573 better describes the location of the authorized points of diversion for Certificate 88588 provided by GPS data collected by the District 10 Watermaster's office in 2015 as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
34 S	33 E	WM	34	SE SE		POD 1 - 740 FEET NORTH AND 1230 FEET WEST FROM THE SE CORNER OF SECTION 34
35 S	33 E	WM	2	NW NW	4	POD 2 - 90 FEET SOUTH AND 740 FEET EAST FROM THE NW CORNER OF SECTION 2
35 S	33 E	WM	2	SE NW		POD 3 - 1760 FEET SOUTH AND 1500 FEET EAST FROM THE NW CORNER OF SECTION 2

8. Transfer Application T-12573 proposes to change the place of use of the right to:

IRRIGATION						
POD	Twp	Rng	Mer	Sec	Q-Q	Acres
1,2,3	35 S	33 E	WM	11	SW NE	16.3
1,2,3	35 S	33 E	WM	11	SE NE	38.5
1,2,3	35 S	33 E	WM	11	NE SE	5.0
1,2,3	35 S	33 E	WM	11	NW SE	14.7
1,2,3	35 S	33 E	WM	11	SW SE	4.0
1,2,3	35 S	33 E	WM	11	SE SE	9.7
TOTAL						88.2

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

Certificate: 88589 in the name of GEORGE STROEMPLE
(perfected under Permit S-43219)

Use: IRRIGATION of 22.8 ACRES

Priority Date: JUNE 27, 1978

Rate: 0.38 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation is limited to a diversion of ONE-SIXTIETH 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

Source: WILDHORSE CREEK, a tributary of ALVORD LAKE

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	33 E	WM	34	SE SE	POD 1 - 1250 FEET NORTH AND 1060 FEET WEST FROM THE SE CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	33 E	WM	1	NW SW	6.2
35 S	33 E	WM	1	SW SW	16.6
TOTAL					22.8

10. The application and map for Transfer T-12573 better describes the location of the authorized points of diversion for Certificate 88589 provided by GPS data collected by the District 10 Watermaster's office in 2015 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	33 E	WM	34	SE SE	POD 1 - 740 FEET NORTH AND 1230 FEET WEST FROM THE SE CORNER OF SECTION 34

11. Transfer Application T-12573 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
35 S	33 E	WM	11	SW NE	0.4
35 S	33 E	WM	11	SE NW	5.4
35 S	33 E	WM	11	NE SW	2.5
35 S	33 E	WM	11	NW SE	9.3
35 S	33 E	WM	11	SW SE	5.2
TOTAL					22.8

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 right. There is no information in the record that would demonstrate that the rights are 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 rights were present within the five-year period prior to submittal of Transfer Application T-12573.
14. The proposed change would not result in enlargement of the right.
15. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in place of use proposed in Transfer Application T-12573 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.

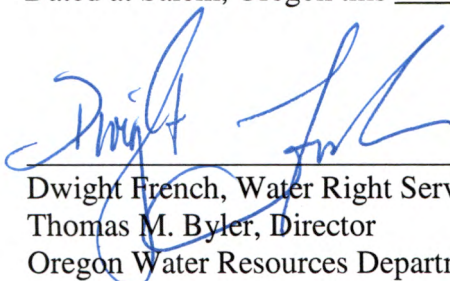
If Transfer Application T-12573 is approved, the final order will include the following:

- The change in place of use proposed in Transfer Application T-12573 is approved.*
- 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 88588, 88589, and any related decree.*
- Water right Certificates 88588 and 88589 are cancelled. New certificates will be issued describing that portion of the rights 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 weir, parshall flume, or, with prior approval of the Director, another suitable measuring device, at each existing points of diversion.*
 - 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.*
5. *Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.*
6. *The former place of use of the transferred rights shall no longer receive water under the rights.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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.*
8. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 30 day of March, 2017.


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

This draft Preliminary Determination was prepared by Jessica Joye. If you have questions about the information in this document, you may reach me at 503-986-0814 or Jessica.L.Joye@oregon.gov.

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>