



Oregon
Kate Brown, Governor

Water Resources Department
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Salem, OR 97301
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April 24, 2017

LEWIS DLC FARM LLC
c/o ANDREW BRYANT
PO BOX 1286
SHERWOOD, OR 97140

SUBJECT: Water Right Transfer Application T-12531

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12531. 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 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 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 if I may be of assistance.

Sincerely,

Arla L Heard
Transfer Specialist
Transfer and Conservation Section

cc: T-12531
Joel M. Plahn, District 16 Watermaster (*via e-mail*)

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

In the Matter of Transfer Application) **PRELIMINARY DETERMINATION**
T-12531, Polk County) **PROPOSING 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

LEWIS DLC FARM LLC
PO BOX 1286
SHERWOOD, OR 97140

Findings of Fact

1. On December 12, 2016, LEWIS DLC FARM LLC, filed an application to change the character of use under Certificate 23955. The Department assigned the application number T-12531.
2. Notice of the application for transfer was published on December 20, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 6, 2017, the Department emailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12531 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 6, 2017, 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: 23955 in the name of ATLAS LUMBER COMPANY (perfected under Permit R-1515)
Use: STOCK
Priority Date: OCTOBER 20, 1952

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.
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Rate: 8.0 ACRE-FEET
Source: UNNAMED STREAM, tributary to the LUCKIAMUTE RIVER

Authorized place of use:

Storage for Stock Use				
Twp	Rng	Mer	Sec	Q-Q
9 S	5 W	WM	18	SE NW
9 S	5 W	WM	18	SW NW

4. Certificate 23955 does not provide a measured distance for the location of the point of the diversion, however the applicant has provided information further describing the location of the dam:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	5 W	WM	18	SE NW	1935 FEET SOUTH AND 1350 FEET EAST FROM THE NW CORNER OF SECTION 18

5. Transfer Application T-12531 proposes to change the character of use to multipurpose.

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

6. 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.
7. The proposed change would not result in enlargement of the rights.
8. 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-12531 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-12531 is approved, the final order will include the following:

1. *The change in character of use proposed in Transfer Application T-12531 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 Certificate 23955 and any related decree.*
3. *Water right Certificate 23955 is cancelled.*
4. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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.*

5. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 20 day of April 2017.


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

This Preliminary Determination was prepared by Arla Heard. If you have questions about the information in this document, you may reach me at 503-986-0860 or Arla.L.Heard@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>