



**Oregon**  
Kate Brown, Governor

**Water Resources Department**  
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Salem, OR 97301  
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June 8, 2017

VIA E-MAIL

MICHAEL DORMAN  
6871 SW HOLLYBROOK  
WILSONVILLE, OR 97070

SUBJECT: Water Right Transfer Application T-12324

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12324. 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 Medford Mail Tribune 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](mailto:Sarah.A.Henderson@oregon.gov) if I may be of assistance.

Sincerely,

Sarah Henderson  
Transfer Specialist  
Transfer and Conservation Section

cc: Transfer Application file T-12324  
Shavon Haynes, District 13 (via e-mail)  
Raymond Brown, CWRE #234 (via e-mail)

encs



**Use:** DOMESTIC USE FOR ONE FAMILY INCLUDING IRRIGATION OF NOT TO EXCEED ONE HALF ACRE LAWN AND NONCOMMERCIAL GARDEN

**Priority Date:** AUGUST 7, 1981

**Rate:** 0.01 CUBIC FOOT PER SECOND (CFS)

**Source:** A SPRING, tributary of TRAIL CREEK

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	1 W	WM	17	SE NW	710 FEET NORTH AND 3850 FEET WEST FROM THE E1/4 CORNER OF SECTION 17

**Authorized Place of Use:**

DOMESTIC USE FOR ONE FAMILY INCLUDING IRRIGATION OF NOT TO EXCEED ONE HALF ACRE LAWN AND NONCOMMERCIAL GARDEN					
Twp	Rng	Mer	Sec	Q-Q	
33 S	1 W	WM	17	NW SE	

6. Transfer Application T-12324 proposes to change the place of use of the right to within:

NURSERY					
Twp	Rng	Mer	Sec	Q-Q	Acre
33 S	1 W	WM	17	NW SE	0.8

7. Transfer Application T-12324 proposes to change the character of use of 0.01 cfs to nursery.
8. The amount of water used for nursery use is limited to 0.15 cubic foot per second per acre and 5.0 acre feet per acre per year. For irrigation of containerized nursery plants, the amount of water diverted under this right, 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 and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made at any time, during the period of allowed use specified above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second and 2.5 acre feet per acre during the irrigation season of each year.
9. Using the Nursery use rate and duty described in Finding of Fact No. 8, the maximum acreage for nursery use for 0.01 cfs is 0.067 acre, further limited to:

Containerized –  $(1/40)(0.025)\text{cfs/ac}$   $0.01 \text{ cfs} \div 0.025 = 0.4 \text{ acres}$ , further limited to  $0.4 \text{ acre} \times 5.0 \text{ acre feet} = 2.0 \text{ acre feet year}$ .

In-Ground –  $(1/80(0.0125)\text{cfs/ac}) 0.01 \text{ cfs} \div 0.0125 = 0.8 \text{ acres}$ , further limited to 0.8 acre x 2.5 = 2.0 acre feet year.

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

10. 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.
11. A pump, with gravity flow from the spring to the household and garden area sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-12324.
12. The proposed change, as conditioned, would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.

**Determination and Proposed Action**

The change in place of use and change in character of use proposed in Transfer Application T-12324 appear 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-12324 is approved, the final order will include the following:*

1. *The changes in place of use and change in character of use proposed in Transfer Application T-12324 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 66591 and any related decree.*
3. *Water right Certificate 66591 is cancelled.*
4. *The quantity of water and place of use allowed for the proposed nursery use shall not exceed a rate of diversion of 0.01 cubic foot per second (cfs) and a place of use of 0.067 acre in area. Containerized nursery use shall be limited to a rate of diversion of 0.01 cfs and a place of use of 0.4 acre in area, further limited to a total volume of water diverted being 2.0 acre feet per year. In-ground nursery use shall be limited to a rate of diversion of 0.01 cfs and a place of use of 0.8 acre in acre, further limited to a total volume of water diverted being 2.0 acre feet per year.*
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 the point of diversion.*
  - b. *The water user shall maintain the meter or measuring device in good working order.*

- c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
6. *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 changes and full beneficial use of the water.*
7. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 7 day of June, 2017.

  
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>