



# Oregon

Kate Brown, Governor

## Water Resources Department

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June 21, 2017

OREGON STATE UNIVERSITY,  
NORTH WILLAMETTE RESEARCH  
AND EXTENSION CENTER  
15210 NE MILEY RD  
AURORA, OR 97002

SUBJECT: Water Right Transfer Application T-12560

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12560. 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 Canby Herald 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 [Jessica.L.Joye@oregon.gov](mailto:Jessica.L.Joye@oregon.gov) or by phone at 503-986-0814, if I may be of assistance.

Sincerely,

Jessica Joye  
Transfer Specialist - Transfer and Conservation Section

cc: T-12560  
Joel M. Plahn, District #16 Watermaster (*via e-mail*)  
Gregory Kupillas, Agent (*via e-mail*)

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

|                                       |   |                               |
|---------------------------------------|---|-------------------------------|
| In the Matter of Transfer Application | ) | PRELIMINARY DETERMINATION     |
| T-12560, Clackamas County             | ) | PROPOSING APPROVAL OF         |
|                                       | ) | ADDITIONAL POINTS OF          |
|                                       | ) | APPROPRIATION AND A CHANGE IN |
|                                       | ) | POINT OF APPROPRIATION        |

**Authority**

Oregon Revised Statutes (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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**

OREGON STATE UNIVERSITY  
NORTH WILLAMETTE RESEARCH AND  
EXTENSION CENTER  
15210 NE MILEY RD  
AURORA OR 97002

**Findings of Fact**

1. On January 9, 2017, OREGON STATE UNIVERSITY, NORTH WILLAMETTE RESEARCH AND EXTENSION CENTER filed an application for additional points of appropriation under Certificate 29298 and a change in point of appropriation under Certificate 38511. The Department assigned the application number T-12560.
2. Notice of the application for transfer was published on January 24, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 9, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12560 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 7, 2017, for the applicant to respond. The applicant’s agent requested that Department proceed with issuance of a Preliminary Determination and provided necessary information to demonstrate that the applicant is authorized to pursue the transfer.

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.

4. On May 19, 2017, the applicant's agent brought to the Department's attention that a scrivener's error had occurred with relation to the distance between the additional points of appropriation and the original point of appropriation (Finding of Fact #6).

5. The first right to be transferred is as follows:

**Certificate:** 29298 in the name of CLACKAMAS COUNTY  
(perfected under Permit G-966)

**Use:** IRRIGATION OF 51.2 ACRES

**Priority Date:** AUGUST 26, 1958

**Rate:** 0.64 CUBIC FOOT 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, shall be limited to ONE-EIGHTIETH 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** A WELL, tributary of the WILLAMETTE RIVER

**Authorized Point of Appropriation:**

| Twp | Rng | Mer | Sec | Q-Q   | Measured Distances   |
|-----|-----|-----|-----|-------|--|
| 3 S | 1 W | WM  | 25  | NW SE | 10.5 CHAINS SOUTH AND 22.75 CHAINS WEST FROM THE SE CORNER OF DLC 43 |

**Authorized Place of Use:**

| IRRIGATION |     |     |     |       |      |       |
|------------|-----|-----|-----|-------|------|-------|
| Twp        | Rng | Mer | Sec | Q-Q   | GLot | Acres |
| 3 S        | 1 W | WM  | 25  | SW NE | 2    | 18.4  |
| 3 S        | 1 W | WM  | 25  | SE NE | 1    | 18.9  |
| 3 S        | 1 W | WM  | 25  | NE SE |      | 7.0   |
| 3 S        | 1 W | WM  | 25  | NW SE |      | 6.9   |
| TOTAL      |     |     |     |       |      | 51.2  |

6. Transfer Application T-12560 proposes additional points of appropriation located:

| Twp | Rng | Mer | Sec | Q-Q   | Measured Distances  | Distance from original well location measured in feet (ft) |
|-----|-----|-----|-----|-------|---|--|
| 3 S | 1 W | WM  | 25  | SW NE | WELL 4 - 480 FEET NORTH AND 2610 FEET WEST FROM THE E1/4 CORNER OF SECTION 25 | 1200   |
| 3 S | 1 W | WM  | 25  | NE SW | WELL 3 - 40 FEET SOUTH AND 2890 FEET WEST FROM THE E1/4 CORNER OF SECTION 25  | 1400   |

7. The second right to be transferred is as follows:

**Certificate:** 38511 in the name of NORTH WILLAMETTE EXPERIMENT STATION  
(perfected under Permit G-3649)

**Use:** IRRIGATION OF 100.8 ACRES

**Priority Date:** APRIL 12, 1967

**Rate:** 0.25 CUBIC FOOT 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, shall be limited to ONE-EIGHTIETH 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** A WELL, a tributary of the WILLAMETTE RIVER

**Authorized Point of Appropriation:**

| Twp | Rng | Mer | Sec | Q-Q   | Measured Distances   |
|-----|-----|-----|-----|-------|--|
| 3 S | 1 W | WM  | 25  | NW SE | 740 FEET SOUTH AND 2110 FEET WEST FROM THE E1/4 CORNER OF SECTION 25 |

**Authorized Place of Use:**

| IRRIGATION |     |     |     |       |       |
|------------|-----|-----|-----|-------|-------|
| Twp        | Rng | Mer | Sec | Q-Q   | Acres |
| 3 S        | 1 W | WM  | 25  | NE SW | 38.7  |
| 3 S        | 1 W | WM  | 25  | NE SE | 32.0  |
| 3 S        | 1 W | WM  | 25  | NW SE | 30.1  |
| TOTAL      |     |     |     |       | 100.8 |

8. Transfer Application T-12560 proposes to move the authorized point of appropriation to:

| Twp | Rng | Mer | Sec | Q-Q   | Measured Distances  | Distance from original well location measured in feet (ft) |
|-----|-----|-----|-----|-------|---|--|
| 3 S | 1 W | WM  | 25  | NW SE | WELL 1 - 10.5 CHAINS SOUTH AND 22.75 CHAINS WEST FROM THE SE CORNER OF DLC 43 | 900  |
| 3 S | 1 W | WM  | 25  | SW NE | WELL 4 - 480 FEET NORTH AND 2610 FEET WEST FROM THE E1/4 CORNER OF SECTION 25 | 1300   |
| 3 S | 1 W | WM  | 25  | NE SW | WELL 3 - 40 FEET SOUTH AND 2890 FEET WEST FROM THE E1/4 CORNER OF SECTION 25  | 1100   |

***Transfer Review Criteria (OAR 690-380-4010)***

9. 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.
10. 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-12560.
11. The proposed changes would not result in enlargement of the rights.
12. The proposed changes would not result in injury to other water rights.
13. All other application requirements are met.

**Determination and Proposed Action**

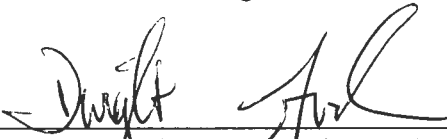
The additional points of appropriation and change in point of appropriation proposed in Transfer Application T-12560 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

*If Transfer Application T-12560 is approved, the final order will include the following:*

1. *The additional points of appropriation and change in point of appropriation proposed in Transfer Application T-12560 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 Certificates 29298 and 38511, any related decree.*
3. *Water Right Certificates 29298 and 38511 are cancelled.*
4. *The quantity of water diverted at the additional points of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
5. *The quantity of water diverted at the new points of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.*
6. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
7. *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.*

8. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

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

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

This Preliminary Determination was prepared by Reimbursement Authority Contractor and reviewed by Department Staff. If you have any questions with regard to this document please contact Jessica Joye at [Jessica.L.Joye@oregon.gov](mailto: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>