



# Oregon

Kate Brown, Governor

## Water Resources Department

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June 28, 2017

CAYUSE VINEYARDS LLC  
PO BOX 1602  
WALLA WALLA, WA 99362

SUBJECT: Water Right Transfer Application T-12592

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12592. 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](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: Transfer Application T-12592  
Greg Silbernagel, District 5 Watermaster (*via e-mail*)  
John Warinner, CWRE # 358

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6. On May 25, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12592 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 22, 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.

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

**Certificate:** 91384 in the name of CAYUSE VINEYARDS LLC  
(perfected under Permit G-13656)

**Use:** SUPPLEMENTAL IRRIGATION of 9.6 ACRES

**Priority Date:** SEPTEMBER 1, 1998

**Rate:** 0.127 CUBIC FOOT PER SECOND

**Limit/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second (or its equivalent) and 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

**Period of Use:** APRIL 1 THROUGH OCTOBER 31

**Source:** WELL 1 in the WALLA WALLA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	35 E	WM	34	SW NW	POA 3 (WELL 1) - 30 FEET NORTH AND 1335 FEET WEST FROM THE C1/4 CORNER OF SECTION 34

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	35 E	WM	34	SW NW	9.6

8. Transfer Application T-12592 proposes additional points of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from original well location measured in feet (ft)
6 N	35 E	WM	34	SW NW	POA 1 - 25 FEET NORTH AND 640 FEET EAST FROM THE W1/4 CORNER OF SECTION 34	640
6 N	35 E	WM	34	SW NW	POA 2 - 40 FEET NORTH AND 640 FEET EAST FROM THE W1/4 CORNER OF SECTION 34	640

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

**Certificate:** 92380 in the name of CAYUSE VINEYARDS LLC  
(perfected under Permit G-13683)  
**Use:** SUPPLEMENTAL IRRIGATION of 7.2 ACRES  
**Priority Date:** OCTOBER 1, 1998  
**Rate:** 0.09 CUBIC FOOT PER SECOND  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to a diversion of ONE-FORTIETH 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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Period of Use:** MARCH 1 THROUGH OCTOBER 31  
**Source:** A WELL in the GOODMAN SPRINGS AND EAST MUD CREEK SPRINGS BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	35 E	WM	34	SW NW	POA 1 - 25 FEET NORTH AND 640 FEET EAST FROM THE W1/4 CORNER OF SECTION 34

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	35 E	WM	34	SW NW	7.2

10. Transfer Application T-12592 proposes additional points of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from original well location measured in feet (ft)
6 N	35 E	WM	34	SW NW	POA 2 - 40 FEET NORTH AND 640 FEET EAST FROM THE W1/4 CORNER OF SECTION 34	15
6 N	35 E	WM	34	SW NW	POA 3 - 40 FEET NORTH AND 1280 FEET EAST FROM THE W1/4 CORNER OF SECTION 34	640

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

11. 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.
12. 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-12592.
13. The proposed change would not result in enlargement of the rights.

14. The proposed change would not result in injury to other water rights.
15. All other application requirements are met.

### **Determination and Proposed Action**


The additional points of appropriation proposed in Transfer Application T-12592 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-12592 is approved, the final order will include the following:*

1. *The additional points of appropriation proposed in Transfer Application T-12592 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 91384 and 92380 and any related decree.*
3. *Water right Certificates 91384 and 92380 are cancelled.*
4. *The quantity of water diverted at the new 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. *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 point of appropriation (new and existing).*
  - 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.*
6. *Water shall be acquired from the same aquifer (water source) as the original point 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 27 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 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>