



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

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August 11, 2017

City of Bandon
c/o Robert Mawson
PO Box 67
Bandon, OR 97411

SUBJECT: Water Right Transfer Application T-12632

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12632. 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 Coos Bay World 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 or by phone at 503-986-0814, if I may be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessica Joye". The signature is fluid and cursive, with a large loop at the end.

Jessica Joye
Reimbursement Authority Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application T-12632
Greg Wacker, District 19 Watermaster (*via e-mail*)
Barbara Negherbon, Agent

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12632, Coos County)	PROPOSING APPROVAL 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

CITY OF BANDON
C/O ROBERT MAWSON
PO BOX 67
BANDON, OR 97411

Findings of Fact

1. On April 5, 2017, CITY OF BANDON filed an application to change the character of use under Certificate 92293. The Department assigned the application number T-12632.
2. Notice of the application for transfer was published on April 18, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 18, 2017, the Department notified the agent of the applicant of the deficiencies found during the initial review of the transfer.
4. On June 13, 2017, the Agent, on behalf of the applicant, submitted sufficient documentation to resolve all deficiencies.
5. A scrivener's error was identified in the description of the authorized place of use for Certificate 92293. The listing in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 36, T28S, R15W, WM is in error, and has been removed as an authorized place of use.

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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6. On June 22, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12632 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 21, 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 right to be transferred is as follows:

Certificate: 92293 in the name of CITY OF BANDON
(perfected under Permit S-3011)
Use: DOMESTIC SUPPLY
Priority Date: JUNE 19, 1916
Rate: 1.6 CUBIC FEET PER SECOND
Source: GEIGER CREEK, a tributary of FERRY CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
28 S	14 W	WM	29	NW SE	1193.45 FEET NORTH AND 2709.05 FEET EAST FROM THE SW CORNER OF SECTION 29

Authorized Place of Use:

DOMESTIC SUPPLY				
Twp	Rng	Mer	Sec	Q-Q
28 S	14 W	WM	19	NE SW
28 S	14 W	WM	19	NW SW
28 S	14 W	WM	19	SW SW
28 S	14 W	WM	19	SE SW
28 S	14 W	WM	19	NE SE
28 S	14 W	WM	19	NW SE
28 S	14 W	WM	19	SW SE
28 S	14 W	WM	19	SE SE
28 S	14 W	WM	29	NW SW
28 S	14 W	WM	30	NE NE
28 S	14 W	WM	30	NW NE
28 S	14 W	WM	30	SW NE
28 S	14 W	WM	30	SE NE
28 S	14 W	WM	30	NE NW
28 S	14 W	WM	30	NW NW
28 S	14 W	WM	30	SW NW
28 S	14 W	WM	30	SE NW
28 S	14 W	WM	30	NE SW
28 S	14 W	WM	30	NW SW
28 S	14 W	WM	30	SW SW
28 S	14 W	WM	30	SE SW
28 S	14 W	WM	30	NE SE
28 S	14 W	WM	30	NW SE
28 S	14 W	WM	30	SW SE
28 S	14 W	WM	30	SE SE

DOMESTIC SUPPLY				
Twp	Rng	Mer	Sec	Q-Q
28 S	14 W	WM	31	NE NW
28 S	14 W	WM	31	NW NW
28 S	14 W	WM	31	SE NW
28 S	15 W	WM	25	NE NE
28 S	15 W	WM	25	NW NE
28 S	15 W	WM	25	SW NE
28 S	15 W	WM	25	SE NE
28 S	15 W	WM	25	NE NW
28 S	15 W	WM	25	SE NW
28 S	15 W	WM	25	NE SW
28 S	15 W	WM	25	NW SW
28 S	15 W	WM	25	SW SW
28 S	15 W	WM	25	SE SW
28 S	15 W	WM	25	NE SE
28 S	15 W	WM	25	NW SE
28 S	15 W	WM	25	SW SE
28 S	15 W	WM	25	SE SE
28 S	15 W	WM	36	NE NE
28 S	15 W	WM	36	NE NW
28 S	15 W	WM	36	NW NW
28 S	15 W	WM	36	SW NW
28 S	15 W	WM	36	SE NW
28 S	15 W	WM	36	NE SW
28 S	15 W	WM	36	NW SW

DOMESTIC SUPPLY				
Twp	Rng	Mer	Sec	Q-Q
28 S	15 W	WM	36	SW SW
28 S	15 W	WM	36	SE SW
28 S	15 W	WM	36	NE SE
28 S	15 W	WM	36	NW SE
28 S	15 W	WM	36	SW SE
28 S	15 W	WM	36	SE SE

8. Transfer Application T-12632 proposed to change the character of use to municipal use.

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

9. 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.
10. A pump, pipeline, and sprinkler system 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-12632.
11. The proposed change would not result in enlargement of the right, provided the rate of diversion for municipal uses is limited to 1.6 cubic foot per second and further limited to a total volume diverted of 1158.4 acre-feet per year.
12. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

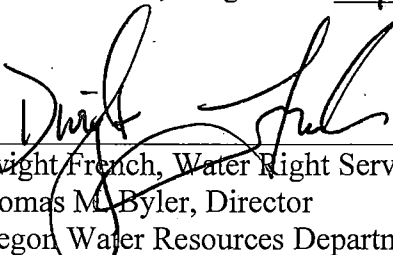
The change in character of use proposed in Transfer Application T-12632 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-12632 is approved, the final order will include the following:

1. *The change in character of use proposed in Transfer Application T-12632 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 92293 and any related decree.*
3. *Water right Certificate 92293 is cancelled.*

4. *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.*
 - b. *The water user shall maintain the meter or measuring devices in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter or measuring devices; provided however, where the meter or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
5. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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.*
6. *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 August, 2017.


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 Jessica.L.Joye@oregon.gov or by phone at 503-986-0814.

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>