



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

August 30, 2017

Sally A. Paterson
7707 NW Eagle Dr.
Redmond, OR 97756

SUBJECT: Water Right Transfer Application T-12410

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12410. 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 503-986-0806 or arla.l.heard@oregon.gov if I may be of assistance.

Sincerely,

Arla L. Heard
Transfer Specialist
Transfer and Conservation Section

cc: T-12410
Jeremy T. Giffin, District 11 Watermaster (*via e-mail*)
John A. Short, Agent for the applicant (*via e-mail*)

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12410, Deschutes County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACE OF USE AND
	)	PARTIAL CANCELLATION OF A
	)	WATER RIGHT

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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

SALLY A PATERSON
7707 NW EAGLE DRIVE
REDMOND, OR 97756

Findings of Fact

1. On June 16, 2016, CAROLYN CHULOS filed an application for a change in place of use under Certificate 68255. The Department assigned the application number T-12410.
2. Notice of the application for transfer was published on June 21, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 12, 2016, the department emailed the agent notifying them of the deficiencies in the application and map.
4. On January 6, 2017, the agent submitted a revised application and map and an affidavit for a partial cancellation of Certificate 68255 correcting any remaining deficiencies.
5. On February 6, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12410 to the applicant and the agent. The

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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Draft Preliminary Determination cover letter set forth a deadline of March 7, 2017, for the applicant to respond.

6. On February 21, 2017, the agent responded on behalf of the applicant and accepted the Draft Preliminary Determination and provided the Department the report of ownership indicating Sally A. Paterson as the landowner.
7. On April 3, 2017, the applicant CAROLYN CHULOS submitted a request for assignment to reflect the transfer holder of record as SALLY A. PATERSON.
8. On April 17, 2017 the Department approved as assignment of Transfer T-12410 to SALLY A PATERSON.
9. On August 17, 2017 the Department emailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12410 to the applicant and the agent. The revised draft Preliminary Determination cover letter set forth a deadline of September 17, 2017, for the applicant to respond.
10. On August 17, 2017, the agent responded on behalf of the applicant and accepted the revised draft Preliminary Determination.

11. The portion of the right to be transferred is as follows:

Certificate: 68255 in the name of JOHN WEISZ (perfected under Permit G-7275)

Use: IRRIGATING 2.88 ACRES

Priority Date: FEBRUARY 25, 1977

Rate: 0.036 CUBIC FEET 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Source: TWO WELLS within the DESCHUTES BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	12 E	WM	11	NE SW	WELL 2 - 2610 FEET NORTH AND 1530 FEET EAST FROM THE SW CORNER OF SECTION 11
15 S	12 E	WM	11	NW SW	WELL 1 - 2500 FEET NORTH AND 1290 FEET EAST FROM THE SW CORNER OF SECTION 11

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	12 E	WM	11	NE SW	2.88

12. Transfer Application T-12410 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	12 E	WM	11	NE SW	2.88

Transfer Review Criteria (OAR 690-380-4010)

13. 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.
14. 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-12410.
15. The proposed change would not result in enlargement of the right.
16. The proposed change would not result in injury to other water rights.
17. All other application requirements are met.

Partial Cancellation of a Water Right

18. On January 6, 2017, the Department received an affidavit from the applicant's agent certifying that a portion of a water right has been abandoned and requesting cancellation of the right. The right to be cancelled is as follows:

Certificate: 68255 in the name of JOHN WEISZ (perfected under Permit G-7275)
Use: IRRIGATING 0.32 ACRES
Priority Date: FEBRUARY 25, 1977
Rate: 0.004 CUBIC FEET 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.
Source: 2 WELLS in the DESCHUTES BASIN

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	12 E	WM	11	NE SW	WELL 2 - 2610 FEET NORTH AND 1530 FEET EAST FROM THE SW CORNER OF SECTION 11
15 S	12 E	WM	11	NW SW	WELL 1 - 2500 FEET NORTH AND 1290 FEET EAST FROM THE SW CORNER OF SECTION 11

Authorized Place of Use to be Cancelled:

Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	12 E	WM	11	SW NW	0.32

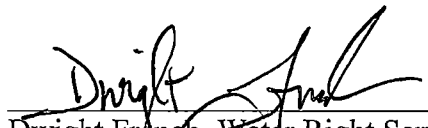
Determination and Proposed Action

The change in place of use proposed in Transfer Application T-12410 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the abandoned right should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned right will be cancelled.

If Transfer Application T-12410 is approved, the final order will include the following:

- 1. The change in place of use proposed in Transfer Application T-12410 is approved. The portion of the right that has been abandoned is cancelled.*
- 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 68255 and any related decree.*
- 3. Water right Certificate 68255 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer and partial cancellation.*
- 4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 5. The former place of use of the transferred right shall no longer receive water under the right.*
- 6. 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.*
- 7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 28 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 Arla Heard. If you have any questions about the information in this document, you may reach me at 503-986-0806 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>