



Oregon

Kate Brown, Governor

Water Resources Department

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September 15, 2017

Applicant

PORT OF MORROW
PO BOX 200 2 MARINE DRIVE
BOARDMAN OR 97818

Agent

RONALD V. MCKINNIS
PORT ENGINEER
PO BOX 200 2 MARINE DRIVE
BOARDMAN OR 97818

SUBJECT: Water Right Transfer Application T-12083

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12083. 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 Heppner Gazette 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 503-986-0886 or Patrick.K.Starnes@oregon.gov if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst

Transfer and Conservation Section

cc: Transfer Application file T-12083
Greg Silbernagel, District 5 Watermaster *(via e-mail)*

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12083, Morrow County)	PROPOSING APPROVAL OF
)	ADDITIONAL POINTS 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.

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Findings of Fact

1. On June 11, 2015, Port of Morrow filed an application for additional points of appropriation under Certificate 90248. The Department assigned the application number T-12083.
2. Notice of the application for transfer was published on June 23, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 14, 2017, Mr. McKinnis, Port Engineer, submitted a revised application map to clarify the points of appropriation descriptions.
4. On August 14, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12083 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 13, 2017, for the applicant to respond. On August 30, 2017, the agent for the applicant requested additional time for completion of the transfer to be extended to October 1, 2019 to guarantee adequate time to complete the project. The Department approved and extended the date by which the applicant must make full beneficial use of water under the terms and conditions of this transfer to October 1, 2019. In addition, the agent, on behalf of 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.

5. The right to be transferred are as follows:

Certificate: 90248 in the name of PORT OF MORROW (perfected under Permit G-8619)
Use: MUNICIPAL USES
Priority Date: JUNE 4, 1979
Rate: 2.26 CUBIC FEET PER SECOND (CFS), BEING 1.84 CFS FROM SUMP WELL NO. 1 AND 1.95 CFS FROM SUMP WELL NO. 2 IN ANY COMBINATION; FURTHER LIMITED TO NOT TO EXCEED 1632.6 ACRE-FEET PER YEAR, or its equivalent in case of rotation, measured at the well.
Source: TWO SUMP WELLS, within the COLUMBIA RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	10	SE NE	SUMP WELL NO. 1 - 1213 FEET NORTH AND 427 FEET WEST FROM THE E¼ CORNER OF SECTION 10
4 N	25 E	WM	10	SE NE	SUMP WELL NO. 2 - 1220 FEET NORTH AND 107 FEET WEST FROM THE E¼ CORNER OF SECTION 10

Authorized Place of Use:

MUNICIPAL USES
THE PORT OF MORROW SERVICE AREA NEAR BOARDMAN, OREGON

6. Transfer Application T-12083 proposes four additional points of appropriation under Certificate 90248. East Beach Wells 1, 2 and 3 are located one mile northeast, and Well H1 is located 2½ miles east, all from Sump Wells No. 1 and 2. The proposed wells are located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	2	SE NW	EB WELL NO. 1 - 1377 FEET SOUTH AND 3659 FEET WEST FROM THE NE CORNER OF SECTION 2
4 N	25 E	WM	2	SE NW	EB WELL NO. 2 - 1448 FEET SOUTH AND 3724 FEET WEST FROM THE NE CORNER OF SECTION 2
4 N	25 E	WM	2	SE NW	EB WELL NO. 3 - 1590 FEET SOUTH AND 3845 FEET WEST FROM THE NE CORNER OF SECTION 2
4 N	26 E	WM	6	SW SE	WELL H1 - 330 FEET NORTH AND 1650 FEET WEST FROM THE SE CORNER OF SECTION 6

Transfer Review Criteria (OAR 690-380-4010)

7. Water has been used within the last five years prior to the submittal of Transfer Application T-12083 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.
8. Wells, pumps, pipeline, and municipal supply water system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-12083.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

11. All other application requirements are met.

Determination and Proposed Action


The additional points of appropriation proposed in Transfer Application T-12083 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-12083 is approved, the final order will include the following:

1. *The additional points of appropriation proposed in Transfer Application T-12083 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 90248 and any related decree.*
3. *Water right Certificate 90248 is cancelled.*
4. *The quantity of water diverted at the additional points of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.*
5. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
6. *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 (new and existing) points of appropriation.*
 - 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.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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.*

8. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 19 day of September, 2017.


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

This Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or Ken.D.Dowden@oregon.gov