



# Oregon

Kate Brown, Governor

## Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

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November 22, 2017

U.S. BUREAU OF RECLAMATION  
ATTN DAWN WIEDMEIER  
1917 MARSH RD  
YAKIMA, WA 98901-2058

SUBJECT: Water Right Transfer Application T-12685

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12685. 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 503-986-0886 or [Patrick.K.Starnes@oregon.gov](mailto: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-12685  
Shavon Haynes, District 13 Watermaster (*via e-mail*)  
Ted Ressler, GSI Water Solutions, Inc. Agent for the applicant (*via e-mail*)

encs

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

In the Matter of Transfer Application            )    PRELIMINARY DETERMINATION  
T-12685, Jackson County                         )    PROPOSING APPROVAL OF A  
   )    CHANGE IN PLACE 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**

U.S. BUREAU OF RECLAMATION  
ATTN: DAWN WIEDMEIER  
1917 MARSH RD  
YAKIMA, WA 98901-2058

**Findings of Fact**

1. On June 12, 2017, the U.S. BUREAU OF RECLAMATION filed an application to change the place of use under Certificate 80-462. The Department assigned the application number T-12685.
2. Notice of the application for transfer was published on June 20, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 10, 2017, the agent for the applicant submitted a “From” lands map, that was missing from the initial application.
4. On October 16, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12685 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 16, 2017, for the applicant to respond. The applicant requested the completion date be extended to October 1, 2022 and for 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.

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.

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

**Certificate:** 80462 in the name of U.S. BUREAU OF RECLAMATION (perfected under Permit S-44349)  
**Use:** MUNICIPAL USE WITHIN THE SERVICE AREA OF THE CITY OF TALENT, OREGON  
**Priority Date:** AUGUST 24, 1978  
**Rate:** 600.0 ACRE-FEET  
**Limit/Duty:** THE RIGHT IS LIMITED TO NOT MORE THAN 600.0 ACRE FEET OF STORED WATER FOR THE CITY OF TALENT, TO BE RELEASED FROM HOWARD PRAIRIE RESERVOIR  
**Period of Use:** APRIL 1 – OCTOBER 31  
**Source:** HOWARD PRAIRIE RESERVOIR, tributary to GRIZZLY CREEK

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
37 S	4 E	WM	16	SE SE	S FK LITTLE BUTTE CREEK - 1240 FEET NORTH AND 1100 FEET WEST FROM THE SE ¼ CORNER OF SECTION 16
37 S	4 E	WM	28	SE NW	POLE BRIDGE CREEK - 1380 FEET SOUTH AND 2000 FEET EAST FROM THE NW CORNER OF SECTION 28
37 S	4 E	WM	34	SW SE	DALEY CREEK - 750 FEET NORTH AND 480 FEET EAST FROM THE S ¼ CORNER OF SECTION 34
38 S	3 E	WM	9	SW SW	CONDE CREEK - 1320 FEET NORTH AND 600 FEET EAST FROM THE SW CORNER OF SECTION 9
38 S	3 E	WM	15	SE SW	DEAD INDIAN CREEK - 1310 FEET NORTH AND 1100 FEET WEST FROM THE S ¼ CORNER OF SECTION 15
38 S	4 E	WM	4	NE SW	BEAVER DAM CREEK - 2000 FEET NORTH AND 1800 FEET EAST FROM THE SW CORNER OF SECTION 4
38 S	4 E	WM	6	NE SE	DEADWOOD CREEK
38 S	4 E	WM	32	E ½ SW	GRIZZLY CREEK
38 S	4 E	WM	32	E ½ SW	HOWARD PRAIRIE RESERVOIR

**Authorized Place of Use:**

Municipal
With the Service Area of the City of Talent, Oregon

6. Transfer Application T-12685 proposes to change the place of use of the right to:

Municipal
With the Service Area of the City of Ashland, Oregon

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

7. 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.
8. 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-12685.
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.

**Determination and Proposed Action**

The change in place of use proposed in Transfer Application T-12685 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.

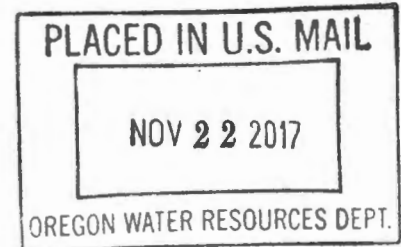
*If Transfer Application T-12685 is approved, the final order will include the following:*

1. *The change in place of use proposed in Transfer Application T-12685 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 80462 and any related decree.*
3. *Water right Certificate 80462 is cancelled.*
4. *The former place of use of the transferred right shall no longer receive water under the right.*
5. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. 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 21 day of November, 2017.

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



This Preliminary Determination was prepared by Marcy Osborn. If you have questions about the information in this document, you may reach me at 541-523-8224 ext.228 or [marcy.j.osborn@oregon.gov](mailto:marcy.j.osborn@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>

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.