



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

November 21, 2017

VIA E-MAIL

Applicant

CITY OF SCAPPOOSE
33568 E COLUMBIA AVE
SCAPPOOSE OR 97056

Agent

GSI WATER SOLUTIONS, INC.
ATTN: JASON MELADY
55 SW YAMHILL ST, SUITE 300
PORTLAND OR 97204

SUBJECT: Water Right Transfer Application T-12586

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12586. 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 if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Program Analyst
Transfer and Conservation Section

cc: Transfer Application file T-12586
Jacob W. Constans, District 18 Watermaster (*via e-mail*)

encs

Authorized Place of Use:

MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
3 N	1 W	WM	7	NE SW
3 N	1 W	WM	7	NW SW
3 N	1 W	WM	7	SE SW
3 N	2 W	WM	1	SW SW
3 N	2 W	WM	1	SE SW
3 N	2 W	WM	2	SW SE
3 N	2 W	WM	2	SE SE
3 N	2 W	WM	11	NE NE
3 N	2 W	WM	11	NW NE
3 N	2 W	WM	11	SE NE
3 N	2 W	WM	11	NE NW
3 N	2 W	WM	11	NE SE
3 N	2 W	WM	11	NW SE
3 N	2 W	WM	11	SE SE
3 N	2 W	WM	12	NE NE
3 N	2 W	WM	12	NW NE
3 N	2 W	WM	12	SW NE
3 N	2 W	WM	12	SE NE
3 N	2 W	WM	12	NE NW
3 N	2 W	WM	12	NW NW
3 N	2 W	WM	12	SW NW
3 N	2 W	WM	12	SE NW
3 N	2 W	WM	12	NE SW
3 N	2 W	WM	12	NW SW
3 N	2 W	WM	12	SW SW
3 N	2 W	WM	12	SE SW
3 N	2 W	WM	12	NE SE
3 N	2 W	WM	12	NW SE
3 N	2 W	WM	12	SW SE
3 N	2 W	WM	12	SE SE
3 N	2 W	WM	13	NE NE
3 N	2 W	WM	13	NW NE
3 N	2 W	WM	13	SW NE
3 N	2 W	WM	13	SE NE
3 N	2 W	WM	13	NE NW
3 N	2 W	WM	13	NW NW
3 N	2 W	WM	13	SW NW
3 N	2 W	WM	13	SE NW
3 N	2 W	WM	13	NE SW
3 N	2 W	WM	13	NW SW
3 N	2 W	WM	13	SW SW
3 N	2 W	WM	13	SE SW
3 N	2 W	WM	13	NW SE
3 N	2 W	WM	13	SW SE
3 N	2 W	WM	14	SE NE
3 N	2 W	WM	14	NE SW
3 N	2 W	WM	14	NW SW
3 N	2 W	WM	14	NE SE
3 N	2 W	WM	14	NW SE
3 N	2 W	WM	24	NW NE

- Transfer Application T-12586 proposes to an additional point of appropriation southeast approximately 100 feet from the authorized Dutch Canyon Well (COLU 100) located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	2 W	WM	13	NE SW	WELL DC-E - 1425 FEET NORTH AND 1855 FEET EAST FROM SW CORNER OF SECTION 13

- On August 31, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12586 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 31, 2017, for the applicant to respond. On October 9, 2017, the agent for 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.

Transfer Review Criteria (OAR 690-380-4010)

- Water has been used within the last five years prior to the submittal of Transfer Application T-12586 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.
- A well, turbine pump and municipal delivery 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-12586.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.
- The Department has determined that the proposed additional point of appropriation, Well DC-E, will develop the same source of water as the authorized existing Dutch Canyon Well (COLU 100).
- The City of Scappoose is a municipality as defined in ORS Chapter 540.510(3)(b), Chapter 261 and a water supplier defined in ORS 448.115. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is not required to provide a report of ownership information.
- All other application requirements are met.

Determination and Proposed Action

The additional point of appropriation proposed in Transfer Application T-12586 appears 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.

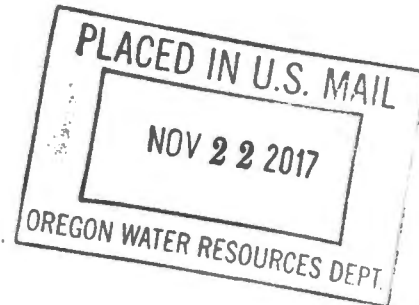
If Transfer Application T-12586 is approved, the final order will include the following:

1. *The additional point of appropriation proposed in Transfer Application T-12586 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 91496 and any related decree.*
3. *Water right Certificate 91496 is cancelled.*
4. *The quantity of water diverted at the new additional point 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 shall be acquired from the same aquifer (water source) as the original point of appropriation Dutch Canyon Well (COLU 100).*
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, 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 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 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 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

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>