



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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December 8, 2017

CITY OF JUNCTION CITY
ATTN: GARY KAPING
PO BOX 250
JUNCTION CITY, OR 97448

SUBJECT: Water Right Transfer Application T-12523

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12523. 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 503-986-0814 or Jessica.L.Joye@oregon.gov, if I may be of assistance.

Sincerely,

Jessica Joye
Reimbursement Authority Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application T-12523
Lanaya Blakely, District 2 Watermaster (*via e-mail*)
Steven R. Bruce, Agent for the applicant (*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-12523, Lane County)	PROPOSING APPROVAL OF AN
)	ADDITIONAL POINT OF
)	APPROPRIATION AND A CHANGE IN
)	PLACE OF USE

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.

Applicant

CITY OF JUNCTION CITY
ATTN: GARY KAPING
PO BOX 250
JUNCTION CITY OR 97448

Findings of Fact

1. On November 14, 2016, the CITY OF JUNCTION CITY filed an application for an additional point of appropriation and a change in place of use under Certificate 41697. The Department assigned the application number T-12523.
2. Notice of the application for transfer was published on November 29, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 28, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-12523 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 27, 2017, for the applicant to respond.
4. On September 29, 2017, the applicant requested that the Department not proceed with issuance of a Preliminary Determination at this time.

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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5. The previous draft Preliminary Determination, mailed to the applicant on August 28, 2017, proposed to deny Transfer Application T-12523. On October 25, 2017, the Department mailed a revised draft Preliminary Determination proposing to approve Transfer Application T-12523.
6. On November 8, 2017, the applicant's agent submitted comments on the revised draft Preliminary Determination sent by the Department on October 25, 2017.
7. This second revised draft Preliminary Determination is prepared to address the comments received and to clarify that, for the purposes of injury review under OAR 690-380, a Ground Water Registration is not a water right subject to injury.
8. On November 27, 2017, the Department mailed a copy of the second revised draft Preliminary Determination proposing to approve Transfer Application T-12523 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 27, 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.
9. The right to be transferred is as follows:

Certificate: 41697 in the name of CITY OF JUNCTION CITY
(perfected under Permit G-4329)

Use: MUNICIPAL

Priority Date: SEPTEMBER 20, 1968

Rate: 1.11 CUBIC FEET PER SECOND

Source: A WELL within the WILLAMETTE RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	4 W	WM	32	NE SW	915 FEET NORTH AND 595 FEET EAST FROM THE SW CORNER OF THE NESW OF SECTION 32

Authorized Place of Use:

MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
15 S	4 W	WM	29	SW SW
15 S	4 W	WM	29	SE SW
15 S	4 W	WM	31	SW NE
15 S	4 W	WM	31	SE NE
15 S	4 W	WM	31	NE SE
15 S	4 W	WM	31	NW SE
15 S	4 W	WM	31	SE SE
15 S	4 W	WM	32	SW NE
15 S	4 W	WM	32	NE NW
15 S	4 W	WM	32	NW NW
15 S	4 W	WM	32	SW NW
15 S	4 W	WM	32	SE NW
15 S	4 W	WM	32	NE SW

MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
15 S	4 W	WM	32	NW SW
15 S	4 W	WM	32	SW SW
15 S	4 W	WM	32	SE SW
15 S	4 W	WM	32	NW SE
15 S	4 W	WM	32	SW SE
15 S	4 W	WM	32	SE SE
16 S	4 W	WM	5	NW NE
16 S	4 W	WM	5	NE NW
16 S	4 W	WM	5	NW NW
16 S	4 W	WM	5	SW NW

10. Transfer Application T-12523 proposes an additional point of appropriation approximately 850 feet from the existing point of appropriation to:

				Measured Distances	
Twp	Rng	Mer	Sec	Q-Q	
15 S	4 W	WM	32	SE NW	3140 FEET NORTH AND 2930 FEET WEST OF THE SE CORNER OF SECTION 32

11. Transfer Application T-12523 also proposes to change the place of use of the right to:

						MUNICIPAL					
Twp	Rng	Mer	Sec	Q-Q		Twp	Rng	Mer	Sec	Q-Q	
15 S	4 W	WM	29	SW SW		15 S	5 W	WM	36	SE SE	
15 S	4 W	WM	29	SE SW		16 S	4 W	WM	5	NW NE	
15 S	4 W	WM	29	NW SE		16 S	4 W	WM	5	SW NE	
15 S	4 W	WM	29	SW SE		16 S	4 W	WM	5	NE NW	
15 S	4 W	WM	30	SE SW		16 S	4 W	WM	5	NW NW	
15 S	4 W	WM	30	SW SE		16 S	4 W	WM	5	SW NW	
15 S	4 W	WM	30	SE SE		16 S	4 W	WM	5	SE NW	
15 S	4 W	WM	31	NE NE		16 S	4 W	WM	5	NE SW	
15 S	4 W	WM	31	NW NE		16 S	4 W	WM	5	NW SW	
15 S	4 W	WM	31	SW NE		16 S	4 W	WM	5	SW SW	
15 S	4 W	WM	31	SE NE		16 S	4 W	WM	5	SE SW	
15 S	4 W	WM	31	NE NW		16 S	4 W	WM	5	NW SE	
15 S	4 W	WM	31	SW NW		16 S	4 W	WM	6	NE NE	
15 S	4 W	WM	31	SE NW		16 S	4 W	WM	6	NW NE	
15 S	4 W	WM	31	NE SW		16 S	4 W	WM	6	SE NE	
15 S	4 W	WM	31	NW SW		16 S	4 W	WM	8	NE NW	
15 S	4 W	WM	31	SW SW		16 S	4 W	WM	8	NW NW	
15 S	4 W	WM	31	SE SW		16 S	4 W	WM	8	SE NW	
15 S	4 W	WM	31	NE SE		16 S	4 W	WM	8	NE SW	
15 S	4 W	WM	31	NW SE		16 S	4 W	WM	8	SE SW	
15 S	4 W	WM	31	SW SE		16 S	4 W	WM	17	NE NW	
15 S	4 W	WM	31	SE SE		16 S	4 W	WM	17	SE NW	
15 S	4 W	WM	32	SW NE		16 S	4 W	WM	17	NE SW	
15 S	4 W	WM	32	NE NW		16 S	4 W	WM	17	SE SW	
15 S	4 W	WM	32	NW NW		16 S	4 W	WM	17	NW SE	
15 S	4 W	WM	32	SW NW		16 S	4 W	WM	17	SW SE	
15 S	4 W	WM	32	SE NW		16 S	4 W	WM	17	NE NE	
15 S	4 W	WM	32	NW SW		16 S	4 W	WM	20	NW NE	
15 S	4 W	WM	32	SE SW		16 S	4 W	WM	20	SW NE	
15 S	4 W	WM	32	NW SE		16 S	4 W	WM	20	SE NE	
15 S	4 W	WM	32	SW SE		16 S	4 W	WM	20	NE NW	
15 S	4 W	WM	32	SE SE		16 S	4 W	WM	20	NE SW	
15 S	5 W	WM	36	NE NE		16 S	4 W	WM	20	SE SW	
15 S	5 W	WM	36	NW NE		16 S	4 W	WM	20	NE SE	
15 S	5 W	WM	36	SW NE		16 S	4 W	WM	20	NW SE	
15 S	5 W	WM	36	SE NE		16 S	4 W	WM	20	SW SE	
15 S	5 W	WM	36	NE SE		16 S	4 W	WM	20	SE SE	
15 S	5 W	WM	36	NW SE		16 S	4 W	WM	20	SW SW	
15 S	5 W	WM	36	SW SE							

MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
16 S	4 W	WM	29	NW NE
16 S	4 W	WM	29	SW NE
16 S	4 W	WM	29	NE NW
16 S	4 W	WM	29	SE NW

Transfer Review Criteria (OAR 690-380-4010)

12. 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.
13. 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-12523.
14. The proposed change would not result in enlargement of the right.
15. The proposed change would not result in injury to other water rights.
16. All other application requirements are met.

Determination and Proposed Action


The additional point of appropriation and a change in place of use proposed in Transfer Application T-12523 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-12523 is approved, the final order will include the following:

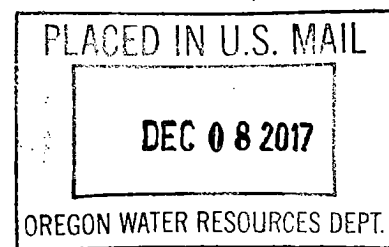
1. *The additional point of appropriation and a change in place of use proposed in Transfer Application T-12523 are approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 41697 and any related decree.*
3. *Water right Certificate 41697 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The quantity of water diverted at the 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.*
6. *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 changes 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 4 day of December, 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 503-986-0814 or Jessica.L.Joye@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>