



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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January 12, 2018

Port of Portland
PO Box 3529
Portland, OR 97208

SUBJECT: Water Right Transfer Application T-12482

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12482. 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 Oregonian, 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 Jessica.L.Joye@oregon.gov or by phone at 503-986-0814, if I may be of assistance.

Sincerely,

Jessica Joye
Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application T-12482
Amy Kim, District #20 Watermaster (*via e-mail*)
Owen McMurtrey, Agent for the applicant (*via e-mail*)

Encl.

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12482, Multnomah 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.

Applicant

PORT OF PORTLAND
C/O DOROTHY SPERRY
PO BOX 3529
PORTLAND OR 97208

Findings of Fact

1. On September 19, 2016, the PORT OF PORTLAND, C/O DOROTHY SPERRY filed an application for additional points of appropriation under Certificate 86571. The Department assigned the application number T-12482.
2. Notice of the application for transfer was published on September 27, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 29, 2017, the Department contacted the applicant's agent in regards to a scrivener's error in Table 1 of the application.
4. On October 3, 2017, the applicant's agent submitted a revised Table 1 of the application, correcting the scrivener's error.

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. On November 6, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12482 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 6, 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.
6. On November 17, 2017, the applicant's agent requested on behalf of the applicant, for the Department to set a completion date of October 1, 2037.
7. The right to be transferred is as follows:

Certificate: 86571 in the name of PORT OF PORTLAND
(perfected under Permit G-13387)

Use: MUNICIPAL USE

Priority Date: APRIL 2, 1997

Rate: 1.71 CUBIC FEET PER SECOND

Period of Use: YEAR ROUND

Source: A WELL IN THE COLUMBIA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	2 E	WM	9	SE SE	28 FEET NORTH AND 335 FEET WEST FROM THE SE CORNER OF SECTION 9

Authorized Place of Use:

Municipal Use
Within the service boundaries of the Port of Portland

8. Transfer Application T-12482 proposes additional points of appropriation located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from original well location measured in miles
1 N	2 E	WM	8	SW NE	PDX WELL 2 - 2020 FEET SOUTH AND 2570 FEET WEST FROM THE NE CORNER OF SECTION 8	1.50
1 N	2 E	WM	6	NW SE	ARFF WELL - 1840 FEET NORTH AND 2350 FEET WEST FROM THE SE CORNER OF SECTION 6	2.70
1 N	2 E	WM	16	SW NW	PIC WELL 2 - 1510 FEET SOUTH AND 1210 FEET EAST FROM THE NW CORNER OF SECTION 16	0.75
1 N	2 E	WM	17	NE NE	PDX MDX WELL - 950 FEET SOUTH AND 825 FEET WEST FROM THE NE CORNER OF SECTION 17	1.10

Transfer Review Criteria (OAR 690-380-4010)

9. 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.

10. 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-12482.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Determination and Proposed Action

The additional points of appropriation proposed in Transfer Application T-12482 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-12482 is approved, the final order will include the following:

1. *The additional points of appropriation proposed in Transfer Application T-12482 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 86571 and any related decree.*
3. *Water right Certificate 86571 is cancelled.*
4. *The quantity of water diverted at the additional points 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 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 point of diversion.*
 - 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.*
6. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*

7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2037**. 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 12 day of January 2018.


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>