



Oregon
Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

January 24, 2018

RAINBOW WATER DISTRICT
ATTN: JAMIE PORTER
PO BOX 8
SPRINGFIELD, OR 97477

SUBJECT: Water Right Transfer Application T-12738

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12738. 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 Jessica.L.Joye@oregon.gov or at 503-986-0814, if I may be of assistance.

Sincerely,

Jessica Joye
Reimbursement Authority Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application T-12738
Lanaya F. Blakely, District 2 Watermaster
Steven R. Bruce, Agent for the applicant

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12738, Lane County)	PROPOSING APPROVAL OF
)	ADDITIONAL POINTS 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

RAINBOW WATER DISTRICT
ATTN: JAMIE PORTER
PO BOX 8
SPRINGFIELD, OR 97477

Findings of Fact

1. On September 8, 2017, RAINBOW WATER DISTRICT filed an application for additional points of appropriation and to change the place of use under Certificate 45304. The Department assigned the application number T-12738.
2. Notice of the application for transfer was published on September 12, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 19, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12738 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 19, 2018.
4. On January 11, 2018, the Department received a revised Table 1 of the application from the applicant's agent.

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. Based on the revised Table 1 submitted by the applicant's agent, the Department drafted a revised Preliminary Determination.
6. On January 12, 2018, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12738 to the applicant. The revised draft Preliminary Determination cover letter set forth a deadline of February 12, 2018, 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.
7. The right to be transferred is as follows:

Certificate: 45304 in the name of RAINBOW WATER DISTRICT
(perfected under Permit G-5132)

Use: MUNICIPAL

Priority Date: SEPTEMBER 1, 1970

Rate: 2.0 CUBIC FEET PER SECOND

Source: WELL NO. 4, a tributary of MCKENZIE RIVER

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	3 W	WM	23	NW SE	1780 FEET NORTH AND 1980 FEET WEST FROM THE SE CORNER OF SECTION 23

Authorized Place of Use:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
17 S	2 W	WM	19	NE SW
17 S	2 W	WM	19	NW SW
17 S	2 W	WM	19	SW SW
17 S	2 W	WM	19	SE SW
17 S	2 W	WM	19	NE SE
17 S	2 W	WM	19	NW SE
17 S	2 W	WM	19	SW SE
17 S	2 W	WM	30	NW NW
17 S	2 W	WM	30	SW NW
17 S	3 W	WM	15	SW SW
17 S	3 W	WM	15	SE SW
17 S	3 W	WM	21	NE SE
17 S	3 W	WM	21	SE SE
17 S	3 W	WM	22	NW NE
17 S	3 W	WM	22	SW NE
17 S	3 W	WM	22	NE NW
17 S	3 W	WM	22	NW NW
17 S	3 W	WM	22	SW NW
17 S	3 W	WM	22	SE NW
17 S	3 W	WM	22	NE SW
17 S	3 W	WM	22	NW SW
17 S	3 W	WM	22	SW SW
17 S	3 W	WM	22	SE SW

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
17 S	3 W	WM	22	NE SE
17 S	3 W	WM	22	NW SE
17 S	3 W	WM	22	SW SE
17 S	3 W	WM	22	SE SE
17 S	3 W	WM	23	NE SW
17 S	3 W	WM	23	NW SW
17 S	3 W	WM	23	SW SW
17 S	3 W	WM	23	SE SW
17 S	3 W	WM	23	NW SE
17 S	3 W	WM	23	SW SE
17 S	3 W	WM	23	SE SE
17 S	3 W	WM	24	NE SW
17 S	3 W	WM	24	NW SW
17 S	3 W	WM	24	SW SW
17 S	3 W	WM	24	SE SW
17 S	3 W	WM	24	NE SE
17 S	3 W	WM	24	NW SE
17 S	3 W	WM	24	SW SE
17 S	3 W	WM	24	SE SE
17 S	3 W	WM	25	NE NE
17 S	3 W	WM	25	NW NE
17 S	3 W	WM	25	SW NE
17 S	3 W	WM	25	SE NE

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
17 S	3 W	WM	25	NE NW
17 S	3 W	WM	25	NW NW
17 S	3 W	WM	25	SW NW
17 S	3 W	WM	25	SE NW
17 S	3 W	WM	25	NE SW
17 S	3 W	WM	25	SE SW
17 S	3 W	WM	26	NE NE
17 S	3 W	WM	26	NW NE
17 S	3 W	WM	26	SW NE
17 S	3 W	WM	26	SE NE
17 S	3 W	WM	26	NE NW
17 S	3 W	WM	26	NW NW
17 S	3 W	WM	26	SW NW
17 S	3 W	WM	26	SE NW
17 S	3 W	WM	26	NE SW
17 S	3 W	WM	26	NW SW
17 S	3 W	WM	26	NW SE
17 S	3 W	WM	27	NE NE
17 S	3 W	WM	27	NW NE
17 S	3 W	WM	27	SW NE
17 S	3 W	WM	27	SE NE
17 S	3 W	WM	27	NE NW

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
17 S	3 W	WM	27	NW NW
17 S	3 W	WM	27	SW NW
17 S	3 W	WM	27	SE NW
17 S	3 W	WM	27	NE SW
17 S	3 W	WM	27	NW SW
17 S	3 W	WM	27	SW SW
17 S	3 W	WM	27	SE SW
17 S	3 W	WM	27	NE SE
17 S	3 W	WM	27	NW SE
17 S	3 W	WM	27	SW SE
17 S	3 W	WM	28	NE NE
17 S	3 W	WM	28	SE NE
17 S	3 W	WM	28	NE SE
17 S	3 W	WM	28	SE SE
17 S	3 W	WM	33	NE NE
17 S	3 W	WM	33	SE NE
17 S	3 W	WM	34	NW NE
17 S	3 W	WM	34	SW NE
17 S	3 W	WM	34	NE NW
17 S	3 W	WM	34	NW NW
17 S	3 W	WM	34	SW NW
17 S	3 W	WM	34	SE NW

8. Certificate 45304 does describe the location of the point of appropriation, however, information is available from the applicant and agent indicating that the point of appropriation is more accurately described as being located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
17 S	3 W	WM	23	NW SE	50	CHASE WELL 4 – 1750 FEET NORTH AND 1870 FEET WEST FROM THE SE CORNER OF SECTION 23

9. Transfer Application T-12738 proposes additional points of appropriation with approximate distances from the authorized points of appropriation located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Approximate distance from original well location measured in feet
17 S	3 W	WM	23	NE SE	50	CHASE WELL 5 - 1720 FEET NORTH AND 920 FEET WEST FROM THE SE CORNER OF SECTION 23	960
17 S	3 W	WM	23	NE SE	50	CHASE WELL 7 - 1640 FEET NORTH AND 1150 FEET WEST FROM THE SE CORNER OF SECTION 23	760
17 S	3 W	WM	23	NW SE	50	CHASE WELL 6 - 1650 FEET NORTH AND 1590 FEET WEST FROM THE SE CORNER OF SECTION 23	280

10. Transfer Application T-12738 also proposes to change the place of use of the right to:

MUNICIPAL USE
WITHIN THE RAINBOW WATER DISTRICT SERVICE AREA

Transfer Review Criteria (OAR 690-380-4010)

11. 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.
12. A pump and pipeline 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-12738.
13. The proposed changes would not result in enlargement of the right.
14. The proposed changes would not result in injury to other water rights.
15. All other application requirements are met.

Determination and Proposed Action

The additional points of appropriation and change in place of use proposed in Transfer Application T-12738 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-12738 is approved, the final order will include the following:

1. *The additional points of appropriation and change in place of use proposed in Transfer Application T-12738 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 45304 and any related decree.*
3. *Water right Certificate 45304 is cancelled.*
4. *The quantity of water diverted at the proposed 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 point of appropriation (new and existing).*
 - 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, 2027**. 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 24 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>