

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12717, Marion County)	PROPOSING APPROVAL OF A
)	CHANGE IN 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

POHLSCHNEIDER PROPERTIES LLC
17904 FRENCH PRAIRIE RD
SAINT PAUL, OR 97137

Findings of Fact

1. On July 20, 2017, POHLSCHNEIDER PROPERTIES LLC filed an application to change the points of appropriation under Certificates 87579 and 89734. The Department assigned the application number T-12717.
2. Notice of the application for transfer was published on July 25, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 12, 2018, the Department contacted the applicant's agent in regards to a few deficiencies found in the application. On the same day, the applicant's agent submitted a revised application and map, clarifying the discrepancies outlined in the Department letter.
4. On March 12, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12717 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 19, 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.

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 first right to be transferred is as follows:

Certificate: 87579 in the name of POHLSCHNEIDER PROPERTIES LLC (perfected under Permit G-11897)
Use: IRRIGATION OF 51.0 ACRES
Priority Date: SEPTEMBER 17, 1991
Rate: 0.64 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Period of Use: March 1 through October 31 of each year
Source: A WELL, in the CHAMPOEG CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	32	NW NE	56	400 FEET SOUTH AND 400 FEET EAST FROM THE N1/4 CORNER OF SECTION 32

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	32	NE NE	56	21.5
4 S	2 W	WM	32	NW NE	56	13.5
4 S	2 W	WM	32	SW NE	56	6.0
4 S	2 W	WM	32	SE NE	56	10.0
TOTAL						51.0

6. Transfer Application T-12717 proposes to move the authorized point of appropriation approximately 3600 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	33	NE NW	56	WELL A - 582 FEET SOUTH AND 2620 FEET EAST FROM THE SW CORNER OF DLC 57

7. The second right to be transferred is as follows:

Certificate: 89734 in the name of POHLSCHNEIDER PROPERTIES LLC (perfected under Permit G-12275)
Use: IRRIGATION OF 132.5 ACRES
Priority Date: JUNE 25, 1992
Rate: 1.66 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: March 1 through October 31

Source: TWO WELLS in the CHAMPOEG CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	28	SE SW	57	WELL 2 - 500 FEET NORTH AND 2970 FEET EAST FROM THE SW CORNER OF DLC 57
4 S	2 W	WM	32	NW NE	56	WELL 1 - 400 FEET SOUTH AND 400 FEET EAST FROM THE N1/4 CORNER OF SECTION 32

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	32	NE NE	56	6.0
4 S	2 W	WM	32	SE NE	56	3.0
4 S	2 W	WM	33	NE NE	56	14.0
4 S	2 W	WM	33	NW NE	56	20.1
4 S	2 W	WM	33	SW NE	56	12.0
4 S	2 W	WM	33	SE NE	56	5.0
4 S	2 W	WM	33	NE NW	56	18.0
4 S	2 W	WM	33	NW NW	56	31.0
4 S	2 W	WM	33	SW NW	56	10.0
4 S	2 W	WM	33	SE NW	56	13.4
TOTAL						132.5

8. Transfer Application T-12717 proposes to change the authorized points of appropriation with approximate distances from the existing points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Distance from original well locations measured in feet	
							Well 1	Well 2
4 S	2 W	WM	33	NE NW	56	WELL A - 582 FEET SOUTH AND 2620 FEET EAST FROM THE SW CORNER OF DLC 57	3600	1150

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 rights. There is no information in the record that would demonstrate that the rights are 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 rights were present within the five-year period prior to submittal of Transfer Application T-12717.
11. The proposed change would not result in enlargement of the rights.

12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Determination and Proposed Action

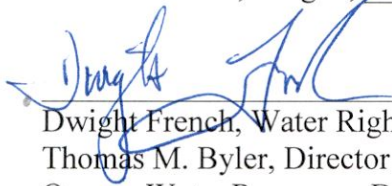
The change in points of appropriation proposed in Transfer Application T-12717 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12717 is approved, the final order will include the following:

1. *The change in points of appropriation proposed in Transfer Application T-12717 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 Certificates 87579 and 89734 and any related decree.*
3. *Water right Certificates 87579 and 89734 are cancelled.*
4. *The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original points 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, 2019**. 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.*

7. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon, APR 24 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 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>