

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

In the Matter of Transfer Application            )  
T-12724, Deschutes County                    )  
  )  
  )  
  )  
  )

PRELIMINARY DETERMINATION  
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**

EAGLE CREST MASTER ASSOCIATION  
ATTN: ECMA PRESIDENT  
PO BOX 1215  
REDMOND, OR 97756

**Agent**

PARAMETRIX  
NIALL BOGGS, PE, CWRE  
150 NW PACIFIC PARK LANE, SUITE 110  
BEND, OR 97701

**Findings of Fact**

1. On July 25, 2017, Eagle Crest Master Association filed an application for additional points of appropriation and to change the place of use under Certificate 90565. The Department assigned the application number T-12724.
2. Notice of the application for transfer was published on August 1, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 3, 2018, the agent for the applicant submitted a revised application which clarified that the Eagle Crest Master Association proposes to change the place of use to match the Eagle Crest Resort’s service area boundary.
4. On April 6, 2018, the Department issued a draft Preliminary Determination proposing to approve Transfer Application T-12724. The draft Preliminary Determination cover letter set forth a deadline of May 6, 2018, for the applicant to respond. On May 4, 2018, the applicant agreed to the terms and conditions of the draft Preliminary Determination, requested the Department proceed with issuance of the 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. On May 4, 2018, the agent for the applicant also requested that the proposed date for complete application of water be extended to allow additional time to evaluate options, acquire funding to rehabilitate Well 3 and guarantee adequate time to complete the project. The Department approved and extended the date by which the applicant must make full beneficial use of water under the terms and conditions of this transfer to October 1, 2023.

6. The right to be transferred is as follows:

**Certificate:** 90565 in the name of OREGON RESORTS ACQUISITIONS (perfected under Permit G-10957)  
**Use:** QUASI-MUNICIPAL USES  
**Priority Date:** JUNE 20, 1988  
**Rate:** 480 GALLONS PER MINUTE  
**Source:** WELL 3, within the DESCHUTES RIVER basin

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	12 E	WM	23	NW NE	WELL 3 - 104 FEET SOUTH AND 696 FEET EAST FROM THE N¼ CORNER OF SECTION 23

**Authorized Place of Use:**

QUASI-MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
15 S	12 E	WM	13	SW SW
15 S	12 E	WM	14	SE¼
15 S	12 E	WM	23	NE¼
15 S	12 E	WM	23	N½ NW¼
15 S	12 E	WM	23	NE SE
15 S	12 E	WM	24	W½ W½

7. Transfer Application T-12724 proposes to change the place of use of the right to:

QUASI-MUNICIPAL
WITHIN THE EAGLE CREST SERVICE AREA

8. Transfer Application T-12724 also proposes additional points of appropriation approximately 40 feet north, 1424 feet and 1430 feet east, respectively, from the authorized point of appropriation. The proposed additional points of appropriation are located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	12 E	WM	23	NE NE	WELL 2A – 491 FEET SOUTH AND 2055 FEET EAST FROM THE N¼ CORNER OF SECTION 23
15 S	12 E	WM	23	NE NE	WELL 2B – 511 FEET SOUTH AND 2055 FEET EAST FROM THE N¼ CORNER OF SECTION 23
15 S	12 E	WM	23	NW NE	WELL 4 – 64 FEET SOUTH AND 692 FEET EAST FROM THE N¼ CORNER OF SECTION 23

**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 right is subject to forfeiture under ORS 540.610.



10. A well, pump, pipeline, and resort/community water distribution delivery 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-12724.
11. The proposed changes would not result in enlargement of the right.
12. The proposed changes would not result in injury to other water rights.
13. All other application requirements are met.

### **Determination and Proposed Action**

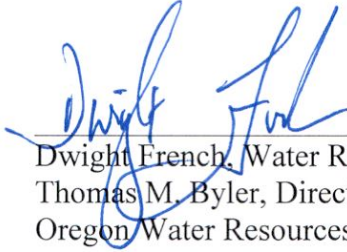
The additional points of appropriation and change in place of use proposed in Transfer Application T-12724 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

*If Transfer Application T-12724 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-12724 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 90565 and any related decree.*
3. *Water right Certificate 90565 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 is/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, 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 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         **JUN 14** 2018        ,



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 any questions about the information in this document, you may reach me at (541) 278-5456, or [Ken.D.Dowden@oregon.gov](mailto: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>