

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12716, Tillamook County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACE OF USE AND
	)	CHARACTER OF USE

**Authority**

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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**

OCEANSIDE WATER DISTRICT  
PO BOX 360  
OCEANSIDE, OR 97134

**Agent**

HBH CONSULTING ENGINEERS  
2316 PORTLAND ROAD, SUITE H  
NEWBERG, OR 97132

**Findings of Fact**

1. On July 17, 2017, Oceanside Water District filed an application to change the place of use and to change the character of use under Certificate 5371. The Department assigned the application number T-12716.
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 9, 2018, the Department sent the applicant, by written e-mail correspondence a list of deficiencies and typos that need to be addressed in the application and map. On April 5, 2018, the agent for the applicant submitted a new revised Table 2 to clarify the "TO" lands.
4. On April 17, 2018, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12716 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 17, 2018, for the applicant to respond. On April 24, 2018, the agent for the applicant requested additional time for completion of the transfer to be extended to October 1, 2050 to 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, 2050.

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 April 26, 2018, the applicant requested the Department continue with the transfer, proceed with issuance of the Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

6. The portion of the right to be transferred is as follows:

**Certificate:** 5371 in the name of J. H. Rosenberg and H. H. Rosenberg, (perfected under Permit S-5243)  
**Use:** DOMESTIC SUPPLY FOR OCEANSIDE  
**Priority Date:** SEPTEMBER 14, 1921  
**Rate:** 1.0 CUBIC FOOT PER SECOND  
**Source:** UNNAMED CREEK, a tributary of PACIFIC OCEAN

**Authorized Place of Use:**

DOMESTIC SUPPLY					
Twp	Rng	Mer	Sec	Q-Q	GLot
1 S	10 W	WM	30	NW NW	--
1 S	10 W	WM	30	SW NW	1
1 S	11 W	WM	25	NE NE	1

7. Certificate 5371 does not describe the location of the point of diversion on the unnamed stream (*now considered Baughman Creek*). However, information is available from Permit S-5243, and its associated map, indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	10 W	WM	30	NE NW	S62° E49' 1696.2 FEET FROM THE NW CORNER OF SECTION 30

8. Transfer Application T-12716 proposes to change the character of use of the right to municipal use.
9. Transfer Application T-12716 also proposes to change the place of use of the right to:

MUNICIPAL USE
OCEANSIDE WATER DISTRICT SERVICE AREA (SERVES OCEANSIDE AND CAPE MEARES)

***Transfer Review Criteria [OAR 690-380-4010(2)]***

10. 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.
11. 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-12716.
12. The proposed changes would not result in enlargement of the right.
13. The proposed changes would not result in injury to other water rights.

### **Determination and Proposed Action**

The change in place of use and change in character of use proposed in Transfer Application T-12716 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-12716 is approved, the final order will include the following:*

- 1. The change in place of use and change in character of use proposed in Transfer Application T-12716 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 5371 and any related decree.*
- 3. Water right Certificate 5371 is cancelled.*
- 4. 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 diversion.*
  - b. The water user shall maintain the meter or measuring device in good working order.*
  - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
- 5. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2050**. 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.*



6. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this JUN 18 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 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>