

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

Certificate: 10446 in the name of H.C., and L.J. PRITCHARD (confirmed by the Pine Creek Decree, Baker County)
Use: IRRIGATION OF 73.0 ACRES AND DOMESTIC AND STOCK USE
Priority Date: 1877 FOR TRACT NO. 1 AND 1879 FOR TRACT NO. 2
Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed ONE-FORTIETH of a cubic foot per second per acre, measured at the point of diversion, and a total limitation of 1.0 acre-foot per acre during July, 1.0 acre-foot per acre during August, and ½ acre-foot per acre during September of each year.
Source: EAST PINE CREEK, tributary to PINE CREEK

Authorized Place of Use:

TRACT 1 - 1877					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	46 E	WM	14	SE NE	30.0

TRACT 2 - 1879					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	46 E	WM	14	SW NE	38.0
8 S	46 E	WM	14	SE NE	5.0
Total					43.0

7. Certificate 10446 does not describe the location of the points of diversion, however information is available from the Powder River Decree and the Decree map indicating the points of diversion are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Ditch Name
8 S	46 E	WM	10	NW SE	Buck & Anderson Ditch
8 S	46 E	WM	14	SW NE	Cureless Ditch

8. Transfer Application T-12861 proposes an additional point of diversion approximately 1.4 miles from the Buck and Anderson ditch and 0.25 mile from the Cureless Ditch downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	46 E	WM	14	NE NE	PUMP STATION - 1240 FEET SOUTH AND 94 FEET WEST FROM THE NE CORNER OF SECTION 14

9. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

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 diversion structure and ditch 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-12861.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.
14. All other application requirements are met.

Determination and Proposed Action

The additional point of diversion proposed in Transfer Application T-12861 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-12861 is approved, the final order will include the following:

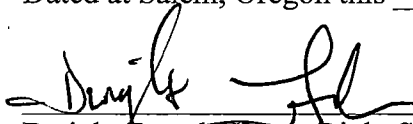
1. *The additional point of diversion proposed in Transfer Application T-12861 is approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 10446 and any related decree.*
3. *Water right Certificate 10446 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The quantity of water diverted at the additional point of diversion, together with that diverted at the original points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.*
5. *Prior to diverting water, the water user shall install a headgate at the Buck and Anderson ditch to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.*
6. *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 and a suitable measuring device at the Buck and Anderson ditch.*

- 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.*
7. *Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.*

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

8. *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.*
9. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this SEP 20 2018,



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

This Preliminary Determination was prepared by Marcy Osborn. If you have questions about the information in this document, you may reach me at 541-523-8224 ext.228 or marcy.j.osborn@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>



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

September 14, 2018

VIA E-MAIL

ARMACOST INVESTMENTS, LLLP
P.O. BOX 219
NEW MEADOWS, ID 83654
lvarmacost@gmail.com

SUBJECT: Water Right Transfer Application T-12861

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12861. 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 Hells Canyon Journal newspaper, 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 503-986-0886 or Patrick.K.Starnes@oregon.gov if I may be of assistance.

Sincerely,

Kelky Starnes

Transfer Program Analyst

Transfer and Conservation Section

cc: Transfer Application file T-12861

Rick M. Lusk, District 8 Watermaster *(via e-mail)*

Barry and Shella Delcurto, Agents for the applicant *(via e-mail) (mightyadashin@yahoo.com)*

encs