

6. On October 31, 2018, Instream Lease IL-1344 expired.

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

Certificate: 79461 in the name of EDWARD J COOLEY (perfected under Permit S-46290)

Use: PRIMARY IRRIGATION OF 2.5 ACRES, SUPPLEMENTAL IRRIGATION OF 1.4 ACRES AND DOMESTIC USE FOR TWO FAMILIES

Priority Date: AUGUST 12, 1980

Rate: 0.061 CUBIC FOOT PER SECOND (CFS), BEING 0.01 CFS FROM THE UNNAMED STREAM WHEN AVAILABLE WITH ANY DEFICIENCY IN SUPPLY AT THE UNNAMED STREAM TO BE MADE UP BY DIVERSION OF WATER FROM MEHL CREEK FOR DOMESTIC USE FOR TWO FAMILIES, 0.031 CFS FROM MEHL CREEK WHEN AVAILABLE WITH ANY DEFICIENCY IN SUPPLY AT MEHL CREEK TO BE MADE UP BY DIVERSION OF WATER FROM THE UNNAMED STREAM FOR IRRIGATION OF 2.5 ACRES, AND 0.02 CFS FROM THE UNNAMED STREAM FOR THE SUPPLEMENTAL IRRIGATION OF 1.4 ACRES

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 ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet for each acre irrigated during the irrigation season of each year, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

Source: MEHL CREEK AND AN UNNAMED STREAM, tributaries of the UMPQUA RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	8 W	WM	13	NW NE	MEHL CREEK – 620 FEET SOUTH AND 860 FEET EAST FROM THE N1/4 CORNER OF SECTION 13
23 S	8 W	WM	13	NW NE	UNNAMED STREAM - 1250 FEET SOUTH AND 600 FEET EAST FROM THE N1/4 CORNER OF SECTION 13

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	8 W	WM	13	NW NE	2.5

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	8 W	WM	13	NW NE	1.4

DOMESTIC USE FOR TWO FAMILIES					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	8 W	WM	13	NW NE	

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

Certificate: 84907 in the name of EDWARD J. COOLEY (perfected under Permit S-46290)

Use: PRIMARY IRRIGATION of 4.8 ACRES

Priority Date: AUGUST 12, 1980

Rate: 0.059 CUBIC FOOT PER SECOND FROM MEHL CREEK WHEN AVAILABLE WITH ANY DEFICIENCY IN SUPPLY AT MEHL CREEK TO BE MADE UP BY DIVERSION OF WATER FROM THE UNNAMED STREAM

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 per acre, 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, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

Source: MEHL CREEK AND AN UNNAMED STREAM, tributaries of the UMPQUA RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
23 S	8 W	WM	13	NW NE	2	MEHL CREEK – 620 FEET SOUTH AND 860 FEET EAST FROM THE N1/4 CORNER OF SECTION 13
23 S	8 W	WM	13	NW NE	2	UNNAMED STREAM - 1250 FEET SOUTH AND 600 FEET EAST FROM THE N1/4 CORNER OF SECTION 13

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
23 S	8 W	WM	13	NE NE	1	4.2
23 S	8 W	WM	13	NW NE	2	0.6
					Total	4.8

9. Transfer Application T-12766 proposes to move the authorized point of diversion from the unnamed stream approximately 371.3 feet upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	8 W	WM	13	SW NE	UNNAMED STREAM - 1435 FEET SOUTH AND 278 FEET EAST FROM THE N1/4 CORNER OF SECTION 14

10. On October 16, 2018, the applicant submitted correspondence from the Oregon Department of Fish and Wildlife, stating that a fish screen would not be required and fish passage would not need to be addressed, as no fish would be present in the stream portion impacted by the transfer application.

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

11. 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.
12. 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-12766.
13. The proposed change would not result in enlargement of the rights.
14. The proposed change would not result in injury to other water rights.
15. All other application requirements are met.

Determination and Proposed Action

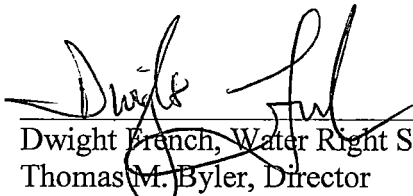
The change in point of diversion proposed in Transfer Application T-12766 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-12766 is approved, the final order will include the following:

1. *The change in point of diversion proposed in Transfer Application T-12766 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 79461 and 84907 and any related decree.*

3. *Water right Certificates 79461 and 84907 are cancelled.*
4. *The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.*
5. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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.*
6. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this NOV 05 2018.



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

This Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or corey.a.courchane@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

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November 5, 2018

EDWARD J. AND MARY E. COOLEY
PO BOX 642
ELKTON, OR 97436

SUBJECT: Water Right Transfer Application T-12766

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12766. 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 corey.a.courchane@oregon.gov or (503) 986-0825, if I may be of assistance.

Sincerely,

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-12766
Susan M. Douthit, District 15 Watermaster (*via e-mail*)
Nathan R. Reed, Agent for the applicant (*via e-mail*)

encs