

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12514, Lane County	)	PROPOSING APPROVAL OF AN
	)	ADDITIONAL POINT OF
	)	APPROPRIATION, A CHANGE IN
	)	POINT OF APPROPRIATION, A
	)	CHANGE IN PLACE OF USE, AND A
	)	CHANGE IN CHARACTER 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**

SHANGRI-LA WATER DISTRICT  
PO BOX 67  
WALTERVILLE, OR 97489

**Findings of Fact**

1. On October 24, 2016, SHANGRI-LA WATER DISTRICT filed an application for an additional point of appropriation, to change the point of appropriation, change the place of use and change the character of use under Certificate 91892. The Department assigned the application number T-12514.
2. Notice of the application for transfer was published on November 1, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 17, 2018, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of deficiencies in the application. The Department requested that the deficiencies be resolved by June 15, 2018. No response was received to the letter.

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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4. On June 19, 2018, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of deficiencies in the application. The Department requested that the deficiencies be resolved by July 19, 2018.
5. On June 19, 2018, the applicant's agent contacted the Department to request additional time, in order to submit the required materials. The Department requested that the deficiencies be resolved by August 31, 2018.
6. On August 17, 2018, the applicant's agent submitted a revised application and map, and an approved Land Use form.
7. On September 7, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12514 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 8, 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.
8. The right to be transferred is as follows:

**Certificate:** 91892 in the name of SHANGRI LA WATER DISTRICT (perfected under Permit G-5533)

**Use:** DOMESTIC USE FOR SHANGRI-LA WATER DISTRICT

**Priority Date:** MARCH 1, 1972

**Rate:** 0.14 CUBIC FOOT PER SECOND

**Source:** WELL #2 in MCKENZIE RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	1 W	WM	26	NE NW	6	3861.7 FEET NORTH AND 1557.9 FEET EAST FROM THE SW CORNER OF SECTION 26

**Authorized Place of Use:**

DOMESTIC USE FOR SHANGRI-LA WATER DISTRICT					
Twp	Rng	Mer	Sec	Q-Q	GLot
17 S	1 W	WM	26	SE NW	5
17 S	1 W	WM	26	NE SW	

9. Transfer Application T-12514 proposes to move the authorized point of appropriation approximately 381 feet SE from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	1 W	WM	26	SE NW	WELL 1 - 1428.1 FEET SOUTH AND 1730.2 FEET EAST FROM THE NW CORNER OF SECTION 26

10. Transfer Application T-12514 also proposes an additional point of appropriation approximately 130 feet SE from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	1 W	WM	26	NE NW	6	WELL 2 - 1354.4 FEET SOUTH AND 1444.6 FEET EAST FROM THE NW CORNER OF SECTION 26

11. Transfer Application T-12514 proposes to change the character of use to quasi-municipal uses.
12. Transfer Application T-12514 also proposes to change the place of use of the right to:

QUASI-MUNICIPAL USE FOR SHANGRI-LA WATER DISTRICT						
Twp	Rng	Mer	Sec	Q-Q	GLot	
17 S	1 W	WM	26	SE NW	5	
17 S	1 W	WM	26	NE SW		
17 S	1 W	WM	26	NW SE		
17 S	1 W	WM	26	SW SE		

13. Use of more water per year than what could have been used for maximum beneficial use for the original domestic use would constitute enlargement of the right, which is not allowed. Therefore, to avoid enlarging the right under the proposed quasi-municipal use, an annual volume limit should be added to the right based on the best available estimate of the maximum amount of water that could have been beneficially diverted and used for domestic use during a year.
14. Certificate 91892 does not specify a total quantity of water to be diverted annually for domestic use; however, ORS 540.610 states “beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state.” If the domestic use was diverted continuously at the authorized rate of 0.14 cubic foot per second (cfs) for 365 days per year (0.14 cfs x 60 sec/min x 60 min/hr x 24 hr/day x 365 days/year ÷ 43,560 square feet per acre = 101.4 acre-feet per year), is the maximum quantity that could have been diverted. However, water for domestic use is not continuously diverted for 24 hours per day, 365 days per year.
15. Estimates of in-house domestic use available from agencies such as the United States Geological Survey (USGS), American Water Works Association (AWWA) and Penn State Cooperative Extension indicate an average in-house domestic water use of approximately 70 gallons per person per day, or approximately 0.47 acre-feet per year for a household that includes six people. Therefore, the annual volume limitation to be placed on the domestic use for this right is 43.24 acre-feet per year (0.47 acre-feet per year x 92 households (according to the Claim of Beneficial Use submitted April 4, 2016) = 43.24 acre feet per year).
16. The total volume of water that may be diverted for Quasi-municipal uses, as conditioned is 43.24 Acre-Feet (AF) year round.

***Transfer Review Criteria (OAR 690-380-4010)***

17. 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.
18. An underground domestic distribution system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-12514.
19. The proposed changes, as conditioned, would not result in enlargement of the right.
20. The proposed changes, as conditioned, would not result in injury to other water rights.
21. All other application requirements are met.

**Determination and Proposed Action**

The additional point of appropriation, change in point of appropriation, change in place of use, and change in character of use proposed in Transfer Application T-12514 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-12514 is approved, the final order will include the following:*

1. *The additional point of appropriation, change in point of appropriation, change in place of use, and change in character of use proposed in Transfer Application T-12514 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 91892 and any related decree.*
3. *Water right Certificate 91892 is cancelled.*
4. *The rate of diversion for the proposed quasi-municipal use shall be limited to 0.14 cubic foot per second and shall be further limited to a total quantity of 43.24 acre feet during the entire year.*
5. *The quantity of water diverted at the new and additional point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
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 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 are located within a private structure, the Watermaster shall request access upon reasonable notice.*
7. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
  8. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2024**. 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.*
  9. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this NOV 19 2018.

  
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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](mailto: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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Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

November 19, 2018

SHANGRI-LA WATER DISTRICT  
PO BOX 67  
WALTERVILLE, OR 97489

SUBJECT: Water Right Transfer Application T-12514

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12514. 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 Register Guard 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 [corey.a.courchane@oregon.gov](mailto: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-12514  
Lanaya F. Blakely, District 2 Watermaster (via e-mail)  
Brooke Blakemore, Agent for the applicant (via e-mail)

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