

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12754, Jackson County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACE 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**

DAVID R. LARSON  
1340 MILL CR DR  
PROSPECT, OR 97536

**Receiving Landowner**

DAVID R. LARSON  
1340 MILL CR DR  
PROSPECT, OR 97536

**Findings of Fact**

1. On September 29, 2017, RYAN M. HARRIS filed an application to change the place of use under Certificate 88740. The Department assigned the application number T-12754.
2. David R. Larson is the receiving landowner who will be responsible for completion of the changes.
3. Notice of the application for transfer was published on October 10, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. On March 22, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12754 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 23, 2018, for the applicant to respond.
5. On April 25, 2018, the Department contacted the applicant by written correspondence to notify the applicant a written response to the conditions and proposed action in the draft Preliminary Determination, and a report of ownership was still needed to continue processing the application. The Department requested that the deficiencies be resolved by May 25, 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.

6. On May 22, 2018, David R. Larson contacted the Department by phone, informing the Department that the original applicant had moved, and that David R. Larson was the current landowner of the property identified in the application.
7. On May 22, 2018, the Department contacted David R. Larson by written correspondence to inform him of the steps needed to continue processing T-12754. The Department requested that the deficiencies be resolved by June 22, 2018.
8. On July 5, 2018, transfer application T-12754 was assigned from Ryan M. Harris to David R. Larson.
9. On July 27, 2018, the Department mailed a copy of a revised draft Preliminary Determination proposing to approve Transfer Application T-12754 to the applicant. The revised draft Preliminary Determination cover letter set forth a deadline of August 27, 2018, for the applicant to respond. No response was received to the letter.
10. On August 17, 2018, the Watermaster notified the Department that the head of the Nye Ditch, which is the conveyance for the water right being transferred, already has a measurement device, and T-12754 is just a change in place of use and there is no need for an additional device at the point of delivery associated with this transfer.
11. On October 1, 2018, the Department sent a letter to Mr. David R. Larson, informing him the Department had not received the written agreement to the revised draft Preliminary Determination, report of ownership, and an Affidavit of Consent from Stuart Carrico. The letter set forth a deadline of October 30, 2018, for the applicant to respond. No response has been received from the applicant.
12. On October 29, 2018, the Department received a report of ownership from the applicant, which identified the tax lot where the "TO" lands would be located.
13. On November 2, 2018, the Department sent a letter to the applicant, informing him the report of ownership identified an incorrect property, and that the report of ownership must identify the lands to which the water right is appurtenant, being the "FROM" lands. The Department also had not received an Affidavit of Consent from Stuart Carrico, who is the land owner of the "FROM" lands. The letter set forth a deadline of December 3, 2018, for the applicant to respond.
14. On December 3, the Department received the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
15. The portion of the right to be transferred is as follows:
  - Certificate:** 88740 in the name of STUART O. CARRICO AND LINDA M. CARRICO (perfected under Permit S-50242)
  - Use:** DOMESTIC USE
  - Priority Date:** NOVEMBER 25, 1987
  - Rate:** 0.005 CUBIC FOOT PER SECOND
  - Source:** NORTH FORK ROGUE RIVER, a tributary to the ROGUE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
32 S	3 E	WM	29	NW SW	590 FEET SOUTH AND 100 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 29

**Authorized Place of Use:**

DOMESTIC				
Twp	Rng	Mer	Sec	Q-Q
33 S	2 E	WM	2	SE SE

16. Transfer Application T-12754 proposes to change the place of use of the right to:

DOMESTIC				
Twp	Rng	Mer	Sec	Q-Q
33 S	2 E	WM	1	SW SE

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

- 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. A diversion structure and ditch 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-12754.
- 19. The proposed change would not result in enlargement of the right.
- 20. The proposed change would not result in injury to other water rights.

**Determination and Proposed Action**

The change in place of use proposed in Transfer Application T-12754 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-12754 is approved, the final order will include the following:*

- 1. *The change in place of use proposed in Transfer Application T-12754 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 88740 and any related decree.*
- 3. *Water right Certificate 88740 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*

4. *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.*
5. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this DEC 17 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](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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(503) 986-0900  
Fax (503) 986-0904

December 17, 2018

DAVID R. LARSON  
1340 MILL CR DR  
PROSPECT, OR 97536

SUBJECT: Water Right Transfer Application T-12754

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12754. 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](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-12754  
Shavon L. Haynes, District 13 Watermaster (*via e-mail*)

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