

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12760, Washington County)	PROPOSING APPROVAL OF AN
)	ADDITIONAL POINT OF
)	APPROPRIATION AND A CHANGE IN
)	PLACE 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

MORSE BROS INC
DBA KNIFE RIVER CORPORATION NORTHWEST
ATTN: JEFF STEYAERT
32260 OLD HWY 34
TANGENT, OR 97389

Findings of Fact

1. On October 11, 2017, MORSE BROS INC, dba KNIFE RIVER CORPORATION NORTHWEST, filed an application for an additional point of appropriation and to change the place of use under Certificate 93267. The Department assigned the application number T-12760.
2. Notice of the application for transfer was published on October 17, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 28, 2018, the Department contacted the applicant's agent regarding a deficiency in the application. The agent submitted a revised Table 1 resolving the deficiency.

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.
--

4. On January 15, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12760 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 13, 2019, 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.

5. The right to be transferred is as follows:

Certificate: 93267 in the name of MORSE BROS INC.
(perfected under Permit G-16087)
Use: INDUSTRIAL USE
Priority Date: NOVEMBER 1, 2005
Rate: 0.223 CUBIC FOOT PER SECOND
Source: A WELL (WASH 1314) IN COFFEE LAKE CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	1 W	WM	3	NE NW	WELL 1 - 170 FEET SOUTH AND 200 FEET WEST FROM THE N1/4 CORNER OF SECTION 3

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q
2 S	1 W	WM	34	SE SW
3 S	1 W	WM	3	NE NW

6. Transfer Application T-12760 proposes an additional point of appropriation approximately 2500 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	1 W	WM	34	SW SW	WELL 2 - 1230 FEET NORTH AND 430 FEET EAST FROM THE SW CORNER OF SECTION 34

7. Transfer Application T-12760 also proposes to change the place of use of the right to:

INDUSTRIAL USE				
Twp	Rng	Mer	Sec	Q-Q
2 S	1 W	WM	34	NW SW
2 S	1 W	WM	34	SW SW
2 S	1 W	WM	34	SE SW
3 S	1 W	WM	3	NE NW
3 S	1 W	WM	3	NW NW

Transfer Review Criteria (OAR 690-380-4010)

8. 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.

9. 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-12760.
10. The proposed changes would not result in enlargement of the right.
11. The proposed changes would not result in injury to other water rights.
12. All other application requirements are met.

Partial Cancellation of a Water Right

13. On December 18, 2018, the Department received an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from Andy Duyck. The right to be cancelled is as follows:

Certificate: 93267 in the name of MORSE BROS INC. (perfected under Permit G-16087)
Use: INDUSTRIAL USE
Priority Date: NOVEMBER 1, 2005
Period of Use: YEAR ROUND
Source: A WELL (WASH 1314) in COFFEE LAKE CREEK BASIN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec.	Q-Q	Measured Distances
3 S	1 W	WM	3	NE NW	WELL 1 - 170 FEET SOUTH AND 200 FEET WEST FROM THE N1/4 CORNER OF SECTION 3

Authorized Place of Use to be Cancelled:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot
2 S	1 W	WM	34	SE SW	1002

Determination and Proposed Action

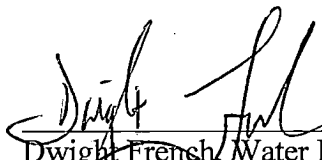
The additional point of appropriation and change in place of use proposed in Transfer Application T-12760 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the abandoned right should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned right will be cancelled.

If Transfer Application T-12760 is approved, the final order will include the following:

1. *The additional point of appropriation and change in place of use proposed in Transfer Application T-12760 are approved. The portion of the right that has been abandoned is cancelled.*
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 93267 and any related decree.*

3. *Water right Certificate 93267 is cancelled.*
4. *The quantity of water diverted at the additional point of appropriation (Well 2), together with that diverted at the original point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 1).*
5. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
6. *The former place of use of the transferred right (Tax lot 1002) shall no longer receive water under the right.*
7. *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 changes and full beneficial use of the water.*
8. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon, FEB 15 2019



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
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

February 15, 2019

MORSE BROS INC
DBA KNIFE RIVER CORPORATION NORTHWEST
ATTN: JEFF STEYAERT
32260 OLD HWY 34
TANGENT, OR 97389

SUBJECT: Water Right Transfer Application T-12760

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12760. 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 Wilsonville Spokesman 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 or (503) 986-0825, if I may be of assistance.

Sincerely,

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-12760
Joel M. Plahn, District 16 Watermaster (via e-mail)
Steven R. Bruce, Agent for the applicant (via e-mail)
encs