

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-13078, Deschutes County	)	PROPOSING APPROVAL OF 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**

COWAN FAMILY TRUST  
CYNTHIA COWAN  
17990 2ND AVE  
BEND, OR 97703

**Receiving Landowner**

JAMES S. AND ALISSA J. COWAN  
2031 NE YORK CIRCLE #1  
BEND, OR 97701

**Findings of Fact**

1. On December 21, 2018, COWAN FAMILY TRUST, CYNTHIA COWAN filed an application to change the place of use under Certificate 80799. The Department assigned the application number T-13078.
2. JAMES S. AND ALISSA J. COWAN are the receiving landowners who will be responsible for completion of the changes.
3. Notice of the application for transfer was published on January 1, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. On February 12, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13078 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 13, 2019, for the applicants to respond. The applicants 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. On March 26, 2019, the applicants submitted a revision of Table 2 for the application, reflecting the desire to only transfer the place of use of 10.0 acres.

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. The right to be transferred is as follows:

**Certificate:** 80799 in the name of JAMES AND NANCY COWAN (perfected under Permit G-12879)  
**Use:** IRRIGATION OF 10.0 ACRES  
**Priority Date:** OCTOBER 18, 1994  
**Rate:** 0.125 CUBIC FOOT PER SECOND  
**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, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** A WELL in the Deschutes BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	10 E	WM	2	NE SE	1143 FEET SOUTH AND 474 FEET WEST FROM THE NE CORNER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
16 S	10 E	WM	2		1	0.4
16 S	10 E	WM	2	NE SE		4.7
16 S	10 E	WM	2	NW SE		0.7
16 S	10 E	WM	2	SW SE		1.4
16 S	10 E	WM	2	SE SE		2.8
TOTAL						10.0

7. Transfer Application T-13078 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	10 E	WM	2	SW SE	10.0
TOTAL					10.0

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

8. Water has been used within the last five years prior to the submittal of Transfer Application T-13078 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-13078.
10. The proposed change would not result in enlargement of the right.

11. The proposed change would not result in injury to other water rights.

12. All other application requirements are met.

### **Determination and Proposed Action**

The change in place of use proposed in Transfer Application T-13078 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-13078 is approved, the final order will include the following:*

- 1. The change in place of use proposed in Transfer Application T-13078 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 80799 and any related decree.*
- 3. Water right Certificate 80799 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 4. The former place of use of the transferred right shall no longer receive water under the right.*
- 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, a new certificate confirming the right transferred will be issued.*

Signed at Salem, Oregon this JUN 04 2019



Lisa J. Jaramillo, Transfer and Conservation Section Manager for  
THOMAS M. BYLER, DIRECTOR  
Oregon Water Resources Department

This Preliminary Determination was prepared by: Tamera Smith. If you have any questions about the information in this document, you may reach me at 503-986-0898 or [tamera.l.smith@oregon.gov](mailto:tamera.l.smith@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

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June 4, 2019

VIA E-MAIL

COWAN FAMILY TRUST  
C/O CYNTHIA COWAN  
17990 2<sup>ND</sup> AVENUE  
BEND, OR 97703

SUBJECT: Water Right Transfer Application T-13078

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13078. 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 503-986-0864 or at [tamera.l.smith@Oregon.gov](mailto:tamera.l.smith@Oregon.gov) if I may be of assistance.

Kindest regards,

Tamera Smith  
Transfer Specialist  
Transfer and Conservation Section

cc: T-13078  
Jeremy T. Giffin, District 11 Watermaster (*via e-mail*)  
Michele Wright Sims Consultant LLC, Agent for the applicant (*via e-mail*)  
James S. and Alissa J. Cowan, Receiving Landowner (*via e-mail*)

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