



**Oregon**  
Kate Brown, Governor

**Water Resources Department**  
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Salem, OR 97301  
(503) 986-0900  
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August 14, 2019

MCEST RANCHES LLC  
PO BOX 1726  
YAKIMA, WA 98907

SUBJECT: Water Right Transfer Application T-12289

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12289. 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 Baker City Herald 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 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 503-986-0806 or [arla.l.davis@oregon.gov](mailto:arla.l.davis@oregon.gov) if I may be of assistance.

Sincerely,

Arla L Davis  
Transfer Specialist  
Transfer and Conservation Section

cc: T-12289  
Rick M. Lusk, District 8 Watermaster (*via e-mail*)  
Shonee D. Langford, Agent for the applicant (*via e-mail*)

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

In the Matter of Transfer Application            )  
T-12289, Baker County                            )  
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PRELIMINARY DETERMINATION  
PROPOSING APPROVAL OF  
ADDITIONAL POINTS 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**

MCEST RANCHES LLC  
PO BOX 1726  
YAKIMA, WA 98907

**Findings of Fact**

1. On March 1, 2016, McEst Ranches LLC, filed an application for additional points of appropriation and to change the place of use under Certificate 53123. The Department assigned the application number T-12289.
2. Notice of the application for transfer was published on March 15, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 18, 2016, the agent for the applicant submitted amended application pages correcting scrivener’s errors.
4. Water Right Transfer Application T-12289 in the name of McEst Ranches, LLC, which was accepted by the Department on March 1, 2016, is to be worked concurrently with Permit Amendment T-12288 in the name of McEst Ranches, LLC to resolve the layered water rights present at the location of the lands being transferred.
5. On December 28, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12289 to the applicant and emailed a copy to the agent. The draft Preliminary Determination cover letter set forth a deadline of January 28, 2017, for the applicant to respond.

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 January 6, 2017, the agent for the applicant responded by email requesting an extra year to complete the changes and accepted the conditions in the Draft Preliminary Determination.

7. The right to be transferred is as follows:

**Certificate:** 53123 in the name of FRASER RANCHES (perfected under Permit G-8094)

**Use:** IRRIGATION OF 200.0 ACRES

**Priority Date:** APRIL 5, 1978

**Rate:** 2.5 CUBIC FEET 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, shall be 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 3 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** A WELL a tributary of POWDER RIVER

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	39 E	WM	24	SE SE	WELL 2 - 240 FEET NORTH AND 1240 FEET WEST FROM THE SE CORNER OF SECTION 24

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	24	NE SE	40.9
7 S	39 E	WM	24	SE SE	34.6
7 S	40 E	WM	19	SW NW	41.2
7 S	40 E	WM	19	NW SW	41.8
7 S	40 E	WM	19	SW SW	41.5
Total:					200.0

8. Transfer Application T-12289 proposes additional points of appropriation with approximate distances from the existing point of appropriation identified as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized Point of Appropriation
7 S	40 E	WM	30	SW SE	WELL S - 1340 FEET WEST FROM THE SE CORNER OF SECTION 30	1.6 Miles
7 S	40 E	WM	29	SW SW	WELL T - 90 FEET NORTH AND 870 FEET EAST FROM THE SW CORNER OF SECTION 29	1.9 Miles
7 S	39 E	WM	24	NE SE	WELL U - 2540 FEET NORTH AND 1340 FEET WEST FROM THE SE CORNER OF SECTION 24	0.2 Miles

Transfer Application T-12289 also proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Gov't Lot	Acres	Type of Change(s)
7 S	39 E	WM	24	NE SE		31.6	APOA
7 S	39 E	WM	24	SE SE		2.1	POU/APOA
7 S	39 E	WM	24	SE SE		29.5	APOA
7 S	40 E	WM	18	SE SW	1	0.9	POU/APOA
7 S	40 E	WM	18	SW SE		3.3	POU/APOA
7 S	40 E	WM	19	NW NE		11.0	POU/APOA
7 S	40 E	WM	19	SE NE		0.8	POU/APOA
7 S	40 E	WM	19	NE NW	1	4.5	POU/APOA
7 S	40 E	WM	19	SW NW	2	37.0	APOA
7 S	40 E	WM	19	NW SW	2	33.5	APOA
7 S	40 E	WM	19	SW SW	2	32.8	APOA
7 S	40 E	WM	19	NE SE		0.1	POU/APOA
7 S	40 E	WM	20	SW NW		12.3	POU/APOA
7 S	40 E	WM	20	NW SW		0.6	POU/APOA
Total:						200.0	

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

9. Water has been used within the last five years. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
10. 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-12289.
11. The proposed changes would not result in enlargement of the right.
12. The proposed changes would not result in injury to other water rights.

**Determination and Proposed Action**

The additional points of appropriation and change in place of use proposed in Transfer Application T-12289 appear 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-12289 is approved, the final order will include the following:*

1. *The additional points of appropriation and change in place of use proposed in Transfer Application T-12289 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 53123 and any related decree.*
3. *Water right Certificate 53123 is cancelled.*

