

6. Transfer Application T-12780 proposes to transfer a water right within the boundaries of Tualatin Valley Irrigation District (District) and involving Certificate 88122 held by the U.S. Bureau of Reclamation. On February 28, 2019, the District certified that they consented to the applicant's proposed water right application and maps.
7. On February 28, 2019, the applicant's agent submitted revised tables and maps for Certificate 88122, resolving the deficiencies.
8. On March 21, 2019, the applicant's agent submitted revised tables and a map, clarifying the location of a proposed point of diversion.
9. On June 11, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12780 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 10, 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.
10. After proof of completion, any water right certificate issued to confirm the changes to Certificate 88122 under Transfer T-12780 is to remain in the name of the U.S. Bureau of Reclamation. All other confirming certificates will be issued in the name of the receiving land owner.

11. The portion of the first right to be transferred is as follows:

Certificate: 23038 in the name of C. B. BUCHANAN, JR. (perfected under Permit S-20595)
Use: IRRIGATION of 0.9 ACRE
Priority Date: JULY 16, 1951
Rate: 0.01 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, 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: TUALATIN RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot
1 S	3 W	WM	3	SE SE	1

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	3	NW SE	49	0.9

12. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 23038 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	3 W	WM	3	SE SE	POD 1 - 235 FEET NORTH AND 845 FEET WEST FROM THE SE CORNER OF SECTION 3

13. Transfer Application T-12780 proposes to move the authorized point of diversion approximately 24.5 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	2 W	WM	11	NW SW	POD B - 1280 FEET NORTH AND 500 FEET EAST FROM THE SW CORNER OF SECTION 11

14. Transfer Application T-12780 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
2 S	2 W	WM	10	NE NE	39	0.9

15. The portion of the second right to be transferred is as follows:

Certificate: 23065 in the name of C. B. BUCHANAN, JR. (perfected under Permit S-21189)

Use: IRRIGATION of 36.7 ACRES

Priority Date: MARCH 18, 1952

Rate: 0.46 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, 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: TUALATIN RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC
1 S	3 W	WM	3	NE SW	46

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	3	SW NE	46	3.0
1 S	3 W	WM	3	SE NW	46	8.5
1 S	3 W	WM	3	NE SW	46	16.3
1 S	3 W	WM	3	NW SE	46	8.6
1 S	3 W	WM	3	SW SE	46	0.3
Total						36.7

16. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 23065 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	3 W	WM	3	NE SW	POD 2 - 1500 FEET NORTH AND 3080 FEET WEST FROM THE SE CORNER OF SECTION 3

17. Transfer Application T-12780 proposes to move the authorized point of diversion downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from original point of diversion in miles (mi.)
2 S	2 W	WM	11	NE SW	POD R-25.5 – 1810 FEET NORTH AND 1870 FEET EAST FROM THE SW CORNER OF SECTION 11	26.0 mi.
2 S	2 W	WM	11	NW SW	POD B - 1280 FEET NORTH AND 500 FEET EAST FROM THE SW CORNER OF SECTION 11	25.6 mi.

18. Transfer Application T-12780 also proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	POD
2 S	2 W	WM	10	SE NE	39	0.1	B
2 S	2 W	WM	11	NE NW	39	2.7	B
2 S	2 W	WM	11	NW NW	39	8.4	B
2 S	2 W	WM	11	SW NW	39	2.9	B
2 S	2 W	WM	11	NE SW	46	1.0	R-25.5
2 S	2 W	WM	11	SE SW	46	14.7	R-25.5
2 S	2 W	WM	11	SW SE	46	6.9	R-25.5
Total						36.7	

19. The portion of the third right to be transferred is as follows:

Certificate: 88122 in the name of US BUREAU OF RECLAMATION (perfected under Permit S-35792)

Use: IRRIGATION of 14.0 ACRES and SUPPLEMENTAL IRRIGATION of 35.5 ACRES

Priority Date: FEBRUARY 20, 1963

Rate: 0.62 CUBIC FOOT PER SECOND (CFS), BEING 0.35 CFS FROM SCOGGINS CREEK AND RESERVOIR, 0.01 CFS FROM GALES CREEK, AND 0.26 CFS FROM THE TUALATIN RIVER

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands per acre or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 2.5 acre-feet for each acre irrigated during the irrigation season of each year from direct flow and storage from the reservoir constructed under Permit R-5777 and as evidenced by Certificate 81149; provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein. The right is

further limited to the use of stored water only on the lands described as supplemental irrigation.

Source: SCOGGINS CREEK, GALES CREEK, AND SCOGGINS RESERVOIR/HENRY HAGG LAKE (constructed under Permit R-5777), tributaries to the TUALATIN RIVER, AND THE TUALATIN RIVER, a tributary of the WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	POD#	LATITUDE	LONGITUDE
1 S	3 W	WM	8	SW SW	SPP	45° 29' 32.73" NORTH	-123° 5' 33.85" WEST

SPP = Springhill Pump Plant

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	3	SW NE	46	2.6
1 S	3 W	WM	3	SE NE	49	4.0
1 S	3 W	WM	3	NE SE	49	3.8
1 S	3 W	WM	3	NW SE	46	3.0
1 S	3 W	WM	3	NW SE	49	0.4
1 S	3 W	WM	3	SE SE	49	0.2
Total						14.0

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	3	SW NE	46	2.7
1 S	3 W	WM	3	SE NW	46	8.5
1 S	3 W	WM	3	NE SW	46	16.7
1 S	3 W	WM	3	NW SE	46	6.5
1 S	3 W	WM	3	NW SE	49	0.8
1 S	3 W	WM	3	SW SE	46	0.3
Total						35.5

20. Transfer Application T-12780 proposes to move the authorized point of diversion downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from original point of diversion in miles (mi.)
2 S	2 W	WM	11	NE SW	POD R-25.5 - 1810 FEET NORTH AND 1870 FEET EAST FROM THE SW CORNER OF SECTION 11	33.1 mi.
2 S	2 W	WM	11	NW SW	POD B - 1280 FEET NORTH AND 500 FEET EAST FROM THE SW CORNER OF SECTION 11	32.7 mi.

21. Transfer Application T-12780 also proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	POD
2 S	2 W	WM	11	NW NW	39	14.0	B

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	POD
2 S	2 W	WM	10	NE NE	39	0.9	B
2 S	2 W	WM	10	SE NE	39	0.1	B
2 S	2 W	WM	11	NE NW	39	2.7	B
2 S	2 W	WM	11	NW NW	39	6.3	B
2 S	2 W	WM	11	SW NW	39	2.9	B
2 S	2 W	WM	11	NE SW	46	1.0	R-25.5
2 S	2 W	WM	11	SE SW	46	14.7	R-25.5
2 S	2 W	WM	11	SW SE	46	6.9	R-25.5
Total						35.5	

22. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion (POD B) to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

23. 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 rights are subject to forfeiture under ORS 540.610.
24. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-12780.
25. The proposed changes would not result in enlargement of the rights.
26. The proposed changes would not result in injury to other water rights.
27. All other application requirements are met.

Determination and Proposed Action

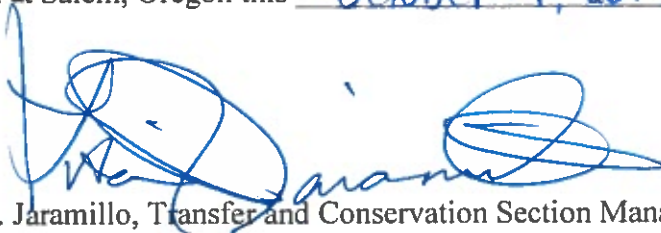
The change in points of diversion and change in places of use proposed in Transfer Application T-12780 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-12780 is approved, the final order will include the following:

- 1. The change in points of diversion and change in places of use proposed in Transfer Application T-12780 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 Certificates 23038, 23065, and 88122, and any related decree.*
- 3. Water right Certificates 23038 and 23065 are cancelled. New certificates will be issued describing the portion of the rights not affected by this transfer.*
- 4. Water right certificate 88122 is modified. A superseding water right certificate in the name of U.S. Bureau of Reclamation will be issued when the Department determines it is necessary for record keeping.*
- 5. The quantity of water diverted at the new points of diversion (POD B and POD R-25.5), shall not exceed the quantity of water lawfully available at the original points of diversion (POD 1, POD 2, and SPP).*
- 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 new point of diversion (POD B).*
 - 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. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion (POD B) consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*
- 8. The former place of use of the transferred rights shall no longer receive water under the rights.*

9. *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.*
10. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred from Certificates 23038 and 23065 will be issued.*
11. *Water right Certificate 88122 is modified. After satisfactory proof of completion has been determined by the Department, a superseding water right certificate in the name of U.S. Bureau of Reclamation will be issued when the Department determines it is necessary for record keeping.*

Issued at Salem, Oregon this October 4, 2019.



Lisa J. Jaramillo, Transfer and Conservation Section Manager, 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

October 4, 2019

PATRICK SPEER
19863 QUAIL PINE LOOP
BEND, OR 97702

SUBJECT: Water Right Transfer Application T-12780

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12780. 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 Hillsboro Argus 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-12780
Jacob W. Constans, District 18 Watermaster (*via e-mail*)
Eric Urstadt, Agent for the applicant (*via e-mail*)
Hoffman Farms, Receiving landowner
U.S. Bureau of Reclamation

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