

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12280, Crook County	)	PROPOSING APPROVAL OF A CHANGE
	)	IN POINT OF APPROPRIATION

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

MARY E. BOWLES
12174 SE REDTAIL LANE
PRINEVILLE, OR 97754

Findings of Fact

1. On February 12, 2016, Jacob D. and Katie S. McNaughton filed an application to change the points of appropriation under Certificate 91154. The Department assigned the application number T-12280.
2. The initial notice of the application for transfer was published on March 1, 2016; however, the original notice incorrectly referenced Certificate 86742. On September 13, 2016, the Department re-noticed transfer application T-12280 pursuant to OAR 690-380-4000 with the correct information. No comments were filed in response to the notice.
3. Transfer Application T-12280 referenced Certificate 86742, however Certificate 86742 was cancelled by Special Order Volume 98, Page 585 (T-12064), and a remaining right was issued for the portion of the right not affected by the Transfer, as evidenced by Certificate 91154. Certificate 91154 is the correct right involved in Transfer Application T-12280.
4. On September 28, 2016, the Department e-mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12280 to original applicants, Jacob D. and Katie S. McNaughton. The draft Preliminary Determination cover letter set forth a deadline of October 28, 2016 for the applicants to respond. The applicants did not respond by the deadline.
5. On November 15, 2016 and June 22, 2018, the Department contacted the original applicants by email requesting response to the draft Preliminary Determination from the applicants.

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.
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6. On July 2, 2018, the Department received correspondence from Mary E. Bowles by email indicating she was the new landowner. The Department requested Transfer Application T-12280 be assigned to Mary E. Bowles in order to move forward.
7. On October 2, 2018, Transfer Application T-12280 was assigned to Mary E. Bowles.
8. On August 22, 2019, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12280 to the applicant. The revised draft Preliminary Determination cover letter set forth a deadline of September 22, 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.
9. The right to be transferred is as follows:

Certificate: 91154 in the name of RIVERS BEND DEVELOPMENT LLC (perfected under Permit G-11684)
Use: IRRIGATION of 2.5 ACRES
Priority Date: MARCH 24, 1992
Rate: 0.03 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. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
Source: TWO WELLS within the DRY CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	16 E	WM	12	SE SW	147 FEET NORTH AND 581 FEET WEST FROM THE S1/4 CORNER OF SECTION 12
16 S	16 E	WM	12	SE SW	178 FEET NORTH AND 510 FEET WEST FROM THE S1/4 CORNER OF SECTION 12

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
16 S	16 E	WM	12	SE SW	700	2.5

10. Transfer Application T-12280 proposes to move the authorized points of appropriation approximately 0.2 mile to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	16 E	WM	12	SE SW	1230 FEET NORTH AND 622 FEET WEST FROM THE S1/4 CORNER OF SECTION 12

11. Certificate 91154 contains a scrivener's error in the place of use table, specifically identifying the number of acres for 16S, 16E, Section 12, SE SW, Redtail Meadows Subdivision Lot Number 4 and 16S, 16E, Section 12, SE SW, Redtail Meadows Subdivision Lot Number 5. The acres are incorrectly identified for Redtail Meadows Subdivision Lot Number 4 as 2.5 acres and incorrectly identified for Redtail Meadows Subdivision Lot Number 5 as 2.5 acres. The correct amount of acres for Redtail Meadows Subdivision Lot Number 4 is 2.4 acres and the correct amount of acres for Redtail Meadows Subdivision Lot Number 5 is 2.4 acres

Transfer Review Criteria (OAR 690-380-4010)

12. Water has been used within the last five years prior to submittal of Transfer Application T-12280 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.
13. Pumps, pipelines, 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-12280.
14. The proposed change as conditioned would not result in enlargement of the right.
15. The proposed change would not result in injury to other water rights.
16. All other application requirements are met.

Determination and Proposed Action

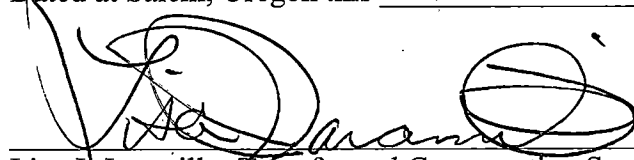
The change in points of appropriation proposed in Transfer Application T-12280 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12280 is approved, the final order will include the following:

1. *The change in points of appropriation proposed in Transfer Application T-12280 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 91154 and any related decree.*
3. *Water right Certificate 91154 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.*

5. *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 appropriation.*
 - b. *The water user shall maintain the meter or measuring device in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
6. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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.*
8. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this OCT 24 2019



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Thomas M. Byler, Director
Oregon Water Resources Department

This Preliminary Determination was prepared by Arla Davis. If you have any questions about the information in this revised draft Preliminary Determination, you may reach me at 503-986-0806 or arla.l.davis@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 24, 2019

MARY E. BOWLES
12174 SE REDTAIL LANE
PRINEVILLE, OR 97754

SUBJECT: Water Right Transfer Application T-12280

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12280. 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 503-986-0806 or arla.l.davis@oregon.gov if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Specialist
Transfer and Conservation Section

cc: T-12280
Jeremy T. Giffin, District 11 Watermaster (via e-mail)
David Armstrong, CWRE #145 and Agent for the applicant (via e-mail)

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