

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13014, Douglas County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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

TERRY QUESTER
5433 BUCKHORN RD.
ROSEBURG, OR 97470

Agent

NATHAN REED
157 W. BODIE ST.
ROSEBURG, OR 97471

Findings of Fact

1. On August 27, 2018, Terry Quester filed an application to change the place of use under Certificate 45642. The Department assigned the application number T-13014.
2. Notice of the application for transfer was published on September 4, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 8, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13014 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 8, 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.

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

Certificate: 45642 in the name of KENNETH D. & CAROLE P. SCOTT (perfected under Permit S-38650)
Use: IRRIGATION of 0.40 ACRE
Priority Date: AUGUST 23, 1973
Rate: 0.005 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: DEER CREEK*, tributary to the SOUTH UMPQUA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	DLC	Measured Distances
27 S	4 W	WM	21	NE SW	44	530 FEET NORTH AND 980 FEET WEST FROM THE SE CORNER OF COX DLC 44

*Note: the source of water should be North Fork Deer Creek. See Finding #7 below for further details.

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	DLC	Acres
27 S	4 W	WM	21	NE SW	500	44	0.25
27 S	4 W	WM	21	NE SW	600	44	0.07
27 S	4 W	WM	21	NE SW	700	44	0.08
Total:							0.40

5. Transfer Application T-13014 proposes to change the place of use to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q - Q	Tax Lot	DLC	Acres
27 S	4 W	WM	21	NE SW	200	44	0.40
Total:							0.40

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

6. Water has been used within the five-year period prior to submittal of the transfer application 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.
7. A diversion structure, 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-13014.
8. Certificate 45642 identifies the source of water as Deer Creek, tributary to South Umpqua River. However, the Department's Final Proof map (Norby/1976) for this right clearly describes the authorized point of diversion on the North Fork of Deer Creek, tributary to Deer Creek. This water right is located 4¼ miles above the confluence with the South Fork

of Deer Creek, and is identified on the Department's Umpqua River basin map as the North Fork Deer Creek. The Watermaster has also confirmed by written correspondence that in fact the source is the North Fork of Deer Creek, tributary to Deer Creek.

9. North Fork Deer Creek flows in a fairly westerly direction from this diversion to its confluence with South Fork Deer Creek, creating the mainstem Deer Creek which flows into the South Umpqua River near Roseburg, Oregon. The Department concludes that the water right of record should be corrected to describe the source of water under Certificate 45642 as North Fork Deer Creek, tributary to Deer Creek, (South Umpqua River basin.)
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

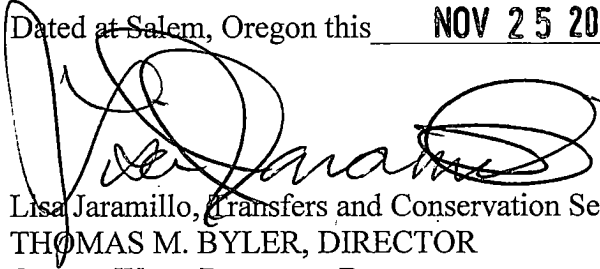
The change in place of use proposed in Transfer Application T-13014 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-13014 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-13014 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 45642 and any related decree.*
3. *Water right Certificate 45642 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, 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.*

6. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this NOV 25 2019.



Lisa Jaramillo, Transfers 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

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November 25, 2019

TERRY QUESTER
5433 BUCKHORN RD.
ROSEBURG, OR 97470

SUBJECT: Water Right Transfer Application T-13014

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13014. 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 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-13014
Susan M. Douthit, District 15 Watermaster (*via e-mail*)
Nathan R. Reed, Agent for the applicant (*via e-mail*)

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