# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING AN
T-12578, Marion County	)	ADDITIONAL 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**

THOMAS AND MARGARET BARNETT 12814 ARNDT RD NE AURORA, OR 97002 thomasbarnett@yahoo.com

#### Findings of Fact

- 1. On January 26, 2017, THOMAS AND MARGARET BARNETT filed an application for an additional point of appropriation under Certificate 33549. The Department assigned the application number T-12578.
- 2. Notice of the application for transfer was published on January 31, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On November 29, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12578 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of December 29, 2017, for the applicants to respond. The applicants requested the completion date be extended to October 1, 2023 and for the Department to proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the.
- On February 26, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12578 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

weekly notice on February 27, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

5. The right to be transferred is as follows:

Certificate: 33549 in the name of EDWARD P. KRUPICHA (perfected under Permit

G-1774)

Use: IRRIGATION of 71.5 ACRES

Priority Date: JANUARY 23, 1961

**Rate:** 0.9 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:** A WELL within the WILLAMETTE RIVER BASIN

### **Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	1 W	WM	5	NW NE	40	WELL 1 - 1000 FEET SOUTH AND 450 FEET WEST FROM THE NW CORNER OF LOT 1, (NENE) OF SECTION 5

#### **Authorized Place of Use:**

		IRR	IGATI	ON		
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	1 W	WM	32	SW SE	39	0.
4 S	1 W	WM	5	NE NE	40	11.
4 S	1 W	WM	5	NW NE	40	30.
4 S	1 W	WM	5	SW NE	40	17.
4 S	1 W	WM	5	SE NE	40	11.
					Total	71.

6. Transfer Application T-12578 proposes an additional point of appropriation approximately 100 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	1 W	WM	5	NW NE	40	WELL 4 - 1030 FEET SOUTH AND 545 FEET WEST FROM THE NW CORNER OF LOT 1, (NENE) OF SECTION 5

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

7. 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 right is subject to forfeiture under ORS 540.610.

- 8. 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-12578.
- 9. The proposed change would not result in enlargement of the right.
- 10. The proposed change would not result in injury to other water rights.
- 11. All other application requirements are met.

#### **Conclusions of Law**

The additional point of appropriation proposed in Transfer Application T-12578 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

## Now, therefore, it is ORDERED:

- The additional point of appropriation proposed in Transfer Application T-12578 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 33549 and any related decree.
- 3. Water right Certificate 33549 is cancelled.
- 4. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
- 5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
- 6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. 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.
- 7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

APP 0 5 2018

Dated at Salem, Oregon this day	r:	
Divigly fred		
Dwight French, Water Right Services Administrator, for		
Thomas M. Byler, Director Oregon Water Resources Department	Mailing date:	APR 0 9 2018