

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

In the Matter of Transfer Application) FINAL ORDER APPROVING OF A
T-12414, Klamath County) 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

LINDA LONG
PO BOX 803
CHILOQUIN, OR 97624

Agent

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1435 ESPLANADE AVE
KLAMATH FALLS, OR 97601

Receiving Landowners

RANDY AND CANDACE CALVERT
PO BOX 799
CHILOQUIN, OR 97624

ALLEN MAXFIELD
329 ISLAND AVE
NEWPORT BEACH, CA 92661

NICHOLAS BERCHEM
PO BOX 607
CHILOQUIN, OR 97624

CHRISTINE HALL
20860 N. TANTUM BLVD, STE 240
PHOENIX, AZ 85050

MICHAEL BOESCH
4484 SWEET STOWE PL
LAS VEGAS, NV 89147

MICHAEL HALL
2468 SE MULBERRY DR
MILWAUKIE, OR 97267

DAVID VHAY
5440 EASTLAKE BLVD
WASHOE VALLEY, NV 89704

DENNIS LINTHICUM
36590 HWY 140 E
BEATTY, OR 97621

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.

Receiving Landowners

JENNIFER THOMASSON
1540 STRATFORD AVE
MEDFORD, OR 97504

JOHN JOHNSTON
4118 ROWLAND DR
FAIRFIELD, CA 94533

ERIC GALVIN
7591 ROCKHAMPTON AVE
LAS VEGAS, NV 89113

BARRY CRIVELLO
73-4341 PAPAANA PL
KAILUA-KONA, HI 96740

RUDY DORY FAMILY PROPERTIES LLC
704 NW HARMON BLVD
BEND, OR 97701

Findings of Fact

1. On June 20, 2016, Peter Bourdet and Linda Long filed an application to change the place of use under Certificate 90137. The Department assigned the application number T-12414.
2. Notice of the application for transfer was published on June 28, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice
3. On February 8, 2017, the Department contacted the applicant to let them know of the deficiencies in the application. The application referenced a superseded certificate.
4. On March 2, 2017, the agent submitted amended application pages and a revised map.
5. On April 20, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12414 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of May 20, 2017, for the applicants to respond.
13. On October 10, 2017, 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.
14. On October 18, 2017, the agent requested Peter Bourdet be removed from application.
15. On December 12, 2017, the Department contacted the Applicant's agent by email, requesting submission of a signed Land Use Form and a revised map.
16. On February 6, 2018, the Department received a revised map.
17. On February 12, 2018, the Department received a signed Land Use Form.

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18. On February 14, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12414 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on February 20, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
19. The portion of the right to be transferred is as follows:

Certificate: 90137 in the name of PETER M. BOURDET
(perfected under S-23654)

Use: IRRIGATION of 49.1 ACRES

Priority Date: JUNE 30, 1955

Rate: 1.23 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, is limited to a diversion of ONE-FORTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Source: WILLIAMSON RIVER, tributary of UPPER KLAMATH LAKE

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
34 S	7 E	WM	22	SE NW	4	3930 FEET NORTH AND 2120 FEET EAST FROM THE NW CORNER OF SECTION 27

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
34 S	7 E	WM	22	SW NE		26.5
34 S	7 E	WM	22	SE NW	4	12.5
34 S	7 E	WM	22	NE SW	9	3.9
34 S	7 E	WM	22	NW SE	9	6.2
Total						49.1

20. Transfer Application T-12414 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
34 S	7 E	WM	27	NE NE	1	19.20
34 S	7 E	WM	27	NW NE	1	5.97
34 S	7 E	WM	27	SW NE	4	0.11
34 S	7 E	WM	27	SE NE	4	19.13
34 S	7 E	WM	27	NE SE	9	4.69
Total						49.1

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

21. 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.

22. 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-12414.
23. The proposed change would not result in enlargement of the right.
24. The proposed change would not result in injury to other water rights.
25. All other application requirements have been met.

Conclusions of Law

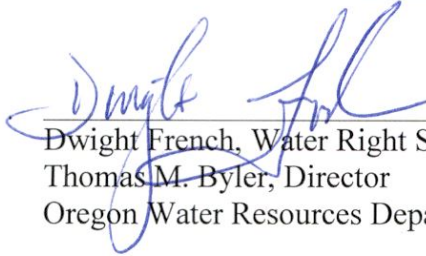
The change in place of use proposed in Transfer Application T-12414 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore it is ORDERED:

1. The change in place of use proposed in Transfer Application T-12414 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 90137 and any related decree.
3. Water right Certificate 90137 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. 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 point of diversion (existing)
 - 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.
5. The former place of use of the transferred right shall no longer receive water under the right.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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.

Dated at Salem, Oregon, APR 05 2018.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: APR 09 2018