



4. On June 8, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12872 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 June 12, 2018, and in the Klamath Falls Herald News newspaper on June 29, 2018 and July 6, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

**Certificate:** 38086 in the name of HOMER AND INEZ DELAMATER  
(perfected under Permit G-3547)  
**Use:** IRRIGATION of 9.9 ACRES  
**Priority Date:** DECEMBER 19, 1966  
**Rate:** 0.09 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** A WELL, within the SPRAGUE RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
36 S	12 E	WM	22	NE NW	930 FEET SOUTH AND 2430 FEET EAST FROM THE NW CORNER OF SECTION 22

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	12 E	WM	22	SW NW	9.2
36 S	12 E	WM	22	NW SW	0.7
TOTAL					9.9

6. Transfer Application T-12872 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	12 E	WM	21	NE NE	9.7
36 S	12 E	WM	21	SE NE	0.2
TOTAL					9.9

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

**Certificate:** 76361 in the name of TERRY AND DESSA LEA HAGER (perfected under Permit G-10140)  
**Use:** IRRIGATION of 102.47 ACRES  
**Priority Date:** APRIL 22, 1983  
**Rate:** 1.28 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-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.

**Source:** A WELL, in the SPRAGUE RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
36 S	12 E	WM	21	NE NE	100 FEET SOUTH AND 30 FEET WEST FROM THE NE CORNER OF SECTION 21

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	12 E	WM	21	NE NE	40.00
36 S	12 E	WM	21	SE NE	40.00
36 S	12 E	WM	21	NE SE	22.47
TOTAL					102.47

8. Transfer Application T-12872 proposes an additional point of appropriation approximately 2600 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
36 S	12 E	WM	22	NE NW	APOA - 930 FEET SOUTH AND 2430 FEET EAST FROM THE NW CORNER OF SECTION 22

9. Transfer Application T-12872 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	12 E	WM	21	NE NE	30.30
36 S	12 E	WM	21	SE NE	39.80
36 S	12 E	WM	21	NE SE	22.47
36 S	12 E	WM	22	SW NW	9.20
36 S	12 E	WM	22	NW SW	0.70
TOTAL					102.47

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

10. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
11. 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-12872.
12. The proposed changes would not result in enlargement of the rights.

13. The proposed changes would not result in injury to other water rights.
14. All other application requirements are met.

### **Conclusions of Law**

The additional point of appropriation and change in place of use proposed in Transfer Application T-12872 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.

### **Now, therefore, it is ORDERED:**

1. The additional point of appropriation and change in place of use proposed in Transfer Application T-12872 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 38086 and 76361 and any related decree.
3. Water right Certificates 38086 and 76361 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.
4. The quantity of water diverted at the additional points 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 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 appropriation (new and existing).
  - 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.
6. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
7. The former place of use of the transferred rights shall no longer receive water under the rights.
8. 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 changes and full beneficial use of the water.

9. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon, AUG 28 2018.



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

*Mailing date:* AUG 29 2018