

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-12669, Josephine County	)	CHANGE FROM A SURFACE WATER
	)	POINT OF DIVERSION TO A
	)	GROUNDWATER POINT OF
	)	APPROPRIATION

**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**

ANN JAMES  
THOMAS R. VANCE  
3567 MIDWAY AVE  
GRANTS PASS, OR 97527

**Findings of Fact**

1. On May 15, 2017, ANN JAMES and THOMAS R. VANCE filed an application to change from a surface water point of diversion to a groundwater point of appropriation under Certificate 10869. The Department assigned the application number T-12669.
2. Notice of the application for transfer was published on May 23, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 18, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12669 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of November 16, 2018, for the applicants to respond. The applicants 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.

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.

4. On November 5, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12669 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 November 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 right to be transferred is as follows:

**Certificate:** 10869 in the name of WILLIAM H. ALGER (perfected under Permit S-9595)  
**Use:** IRRIGATION of 3.4 ACRES  
**Priority Date:** APRIL 15, 1930  
**Rate:** 0.04 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 in case of rotation.  
**Source:** MURPHY CREEK, a tributary of APPLGATE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q
37 S	6 W	WM	25	NE SE

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	6 W	WM	25	NE SE	3.40

6. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 10869 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
37 S	6 W	WM	25	NE SE	1020 FEET WEST FROM THE E-S1/16 CORNER OF SECTION 25

7. Transfer Application T-12669 proposes to change from a surface water point of diversion to a groundwater point of appropriation (well) approximately 444 feet from the existing point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
37 S	6 W	WM	25	NE SE	90 FEET NORTH AND 585 FEET WEST FROM THE E-S1/16 CORNER OF SECTION 25

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

8. 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.

9. A portable pump, water tank, 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-12669.
10. The proposed point of appropriation meets the requirements of ORS 540.531 and OAR 690-380-2130(2).
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

### **Conclusions of Law**

The change from a surface water point of diversion to a groundwater point of appropriation proposed in Transfer Application T-12669 is consistent with the requirements of ORS 540.505 to 540.580, OAR 690-380-2130 and OAR 690-380-5000.

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

1. The change from a surface water point of diversion to a groundwater point of appropriation proposed in Transfer Application T-12669 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 10869 and any related decree.
3. Water right Certificate 10869 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 point of diversion.
5. The well from which the water is taken under this right shall be constructed so that the use of the well will affect the surface water source similarly to the use of the original authorized point of diversion.
6. The use of water under this right shall be subject to regulation consistent with other water rights from the surface water source and to all other applicable conditions and restrictions that existed at the original point of diversion.
7. 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/appropriation.
  - 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.
8. The original date of priority shall be retained. However, if within five years after approving the transfer, the Department finds that the transfer results in substantial interference with existing groundwater rights that would not have occurred in the absence of the transfer, the proposed well shall be subordinate to any existing right injured by the transferred water right.
9. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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.
10. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this JAN 02 2019,

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

Mailing date: JAN 03 2019