

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

In the Matter of Transfer Application)	FINAL ORDER
T-12857, Crook County)	APPROVING A CHANGE IN POINT
)	OF APPROPRIATION AND A
)	CHANGE IN PLACE OF USE

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

WAIBEL PROPERTIES, LLC
BRAD AND JULIE WAIBEL
C/O BOB WILLIAMS
8055 SW POWELL BUTTE HWY
POWELL BUTTE, OR 97753

Agent

H.A. MCCOY ENGINEERING AND SURVEYING
ATTN: HAYES MCCOY
1180 SW LAKE ROAD, #201
REDMOND, OR 97756

Findings of Fact

1. On February 28, 2018, Brad and Julie Waibel, Waibel Properties LLC, filed an application to change the point of appropriation and to change the place of use under Certificate 55660. The Department assigned the application number T-12857.
2. Notice of the application for transfer was published on March 6, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 13, 2018, the agent for the applicant submitted a revised application and map to clarify the authorized point of appropriation and place of use.

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 June 18, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12857 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of July 18, 2018, for the applicants to respond. On May 9, 2018, the agent for the applicants agreed to the terms and conditions of the draft Preliminary Determination, requested the Department proceed with issuance of the Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
5. On June 23, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12857 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on June 24, 2018 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

6. The right to be transferred is as follows:

Certificate: 55660 in the name of L. S. RANCH OF PSR (perfected under Permit G-10430)
Use: IRRIGATION OF 40.0 ACRES
Priority Date: AUGUST 16, 1984
Rate: 0.5 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, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.
Source: A WELL within the CROOKED RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	21 E	WM	12	SW NW	1350 FEET SOUTH AND 1200 FEET EAST FROM THE NW CORNER OF SECTION 12

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	21 E	WM	12	SW NW	0.1
17 S	21 E	WM	12	SE NW	24.0
17 S	21 E	WM	12	NE SW	15.9
Total					40.0

7. Transfer Application T-12857 proposes to move the authorized point of appropriation southeast approximately 825 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	21 E	WM	12	SE NW	1600 FEET SOUTH AND 2000 FEET EAST FROM THE NW CORNER OF SECTION 12

8. Transfer Application T-12857 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	21 E	WM	12	NE SW	15.8
17 S	21 E	WM	12	NW SW	19.0
17 S	21 E	WM	12	SW SW	3.0
17 S	21 E	WM	12	SE SW	2.2
Total					40.0

Transfer Review Criteria (OAR 690-380-4010)

9. 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.
10. A well, 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-12857.
11. The proposed changes would not result in enlargement of the right.
12. The proposed changes would not result in injury to other water rights.
13. All other application requirements are met.

Conclusions of Law

The change in point of appropriation and change in place of use proposed in Transfer Application T-12857 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in point of appropriation and change in place of use proposed in Transfer Application T-12857 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 Certificate 55660 and any related decree.
3. Water right Certificate 55660 is cancelled.

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 new point of appropriation.
 - 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 quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
7. The former place of use of the transferred right shall no longer receive water under the right.
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, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this **AUG 29 2018** ,



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

Mailing date: **AUG 30 2018**