

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

In the Matter of Transfer Application            )    **FINAL ORDER PROPOSING**  
T-12051, Klamath County                        )    **APPROVING A CHANGE IN POINT**  
  )    **OF APPROPRIATION AND PLACE OF**  
  )    **USE**

**Authority**

Oregon Revised Statute (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 Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

WALTER AND DONNA BIANCHI  
3220 ROUND LAKE RD  
KLAMATH FALLS, OR 97601

**Findings of Fact**

1. On April 27, 2015, WALTER AND DONNA BIANCHI filed an application to change the point of appropriation and change the place of use under Certificates 65973 and 89547. The Department assigned the application number T-12051.
2. Notice of the application for transfer was published on May 5, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 7, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12051 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of November 6, 2015, for the applicants to respond. The applicants requested that the completion date be extended to October 1, 2022 and for 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.
4. On October 15, 2015, the watermaster submitted a revised watermaster review form clarifying the requirement of a measuring device on the new point of appropriation only.

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.

5. On November 24, 2015, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12051 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on December 1, 2015 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

**Certificate:** 65973 in the name of JACK ARMSTRONG (perfected under Permit G-10432)  
**Use:** IRRIGATION OF 3.6 ACRES  
**Priority Date:** SEPTEMBER 18, 1984  
**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 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 ROUND LAKE BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	8 E	WM	7	SE NE	550 FEET NORTH AND 360 FEET WEST FROM THE E <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 7

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of Change
39 S	8 E	WM	7	SE NE	1.6	POU AND POA
39 S	8 E	WM	7	SE NE	2.0	POA

7. Transfer Application T-12051 proposes to move the authorized point of appropriation approximately 120 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	8 E	WM	7	SE NE	BIANCHI WELL (KLAM 14126) - 2350 FEET SOUTH AND 210 FEET WEST FROM THE NE CORNER OF SECTION 7

8. Transfer Application T-12051 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 E	WM	7	SE NE	1.6

9. The second right to be transferred is as follows:

**Certificate:** 89547 in the name of EMILY M. KARA (perfected under Permit G-13073)  
**Use:** IRRIGATION of 3.3 ACRES  
**Priority Date:** MAY 31, 1994  
**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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Period of Use:** MARCH 1 THROUGH OCTOBER 31  
**Source:** A WELL within the ROUND LAKE BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	8 E	WM	7	NE NE	(KLAM 14128) - 1140 FEET SOUTH AND 205 FEET WEST FROM THE NE CORNER OF SECTION 7

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 E	WM	7	NE NE	3.3

10. Transfer Application T-12051 proposes to move the authorized point of appropriation approximately 650 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	8 E	WM	7	SE NE	BIANCHI WELL (KLAM 14126) - 2350 FEET SOUTH AND 210 FEET WEST FROM THE NE CORNER OF SECTION 7

11. Transfer Application T-12051 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 E	WM	7	SE NE	3.3

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

12. 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.
13. 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-12051.
14. The proposed changes would not result in enlargement of the rights.
15. The proposed changes would not result in injury to other water rights.

16. 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-12051 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:**

1. The change in point of appropriation and change in place of use proposed in Transfer Application T-12051 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 65973 and 89547, and any related decree.
3. Water right Certificates 65973 and 89547 are cancelled. A new certificate will be issued describing that portion of Certificate 89547 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 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 the 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 are located within a private structure, the Watermaster shall request access upon reasonable notice. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. The former places of use of the transferred rights shall no longer receive water under the rights.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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.

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

Dated at Salem, Oregon this 12 day of January, 2016.

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

Mailing date: JAN 14 2016