

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

In the Matter of Transfer Application)	FINAL ORDER
T-12984, Wallowa County)	APPROVING A 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

SATURNO LAND CO. OREGON LLC
62582 BOWERMAN RD
JOSEPH, OR 97846
tdwags42@gmail.com

Findings of Fact

1. On July 23, 2018, SATURNO LAND CO. OREGON LLC filed an application to change the place of use under Certificate 3117. The Department assigned the application number T-12984.
2. Notice of the application for transfer was published on July 31, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 14, 2018, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12984 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of October 15, 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 applicants are 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 December 27, 2018, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12984 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on January 1, 2019 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: 3117 in the name of MOONSHINE DITCH COMPANY (confirmed by Wallowa River Decree)
Use: IRRIGATION of 7.5 ACRES, DOMESTIC AND STOCK USE
Priority Date: NOVEMBER 30, 1901
Limit/Duty: The amount of water to which such right is entitled and hereby confirmed for the purposes aforesaid, is limited to amount actually beneficially used for said purposes and shall not exceed 1.5 acre feet per acre during any period of 30 days prior to July 31st of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season.
Source: HURRICANE CREEK, tributary to the WALLOWA RIVER

Authorized Place of Use:

IRRIGATION, DOMESTIC, AND STOCK USE					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	44 E	WM	35	SE SE	3.2
2 S	44 E	WM	36	SW SW	4.3
Total					7.5

6. Certificate 3117 does not describe the location of the point of diversion, however information is available from the Wallowa River Decree and the local watermaster indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Ditch Name
3 S	44 E	WM	3	NE NE	Moonshine Ditch

7. Transfer Application T-12984 proposes to change the place of use of the right to:

IRRIGATION, DOMESTIC, AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	44 E	WM	35	NE SE	4.0
2 S	44 E	WM	35	SE SE	3.5
Total					7.5

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 diversion structure and ditch 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-12984.

10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

Conclusions of Law

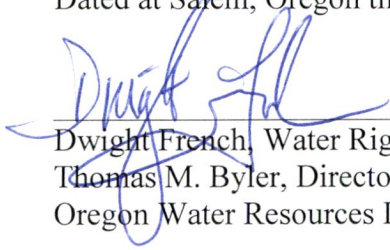
The change in place of use proposed in Transfer Application T-12984 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-12984 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 3117 and any related decree.
3. Water right Certificate 3117 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.
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, 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.

7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this MAR 08 2019,



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

This Preliminary Determination was prepared by Marcy Osborn. If you have questions about the information in this document, you may reach me at 541-523-8224 ext.228 or marcy.j.osborn@oregon.gov

Protests should be addressed to the attention of Water Rights Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>