

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

In the Matter of Transfer Application) **FINAL ORDER**
T-12164, Harney County) **APPROVING ADDITIONAL POINTS**
) **OF APPROPRIATION**

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

CAMERON, KEATON AND LOUIS MOLT
72299 TURNOUT ROAD
BURNS OR 97720

Findings of Fact

1. On September 14, 2015, CAMERON, KEATON AND LOUIS MOLT filed an application for additional points of appropriation under Certificates 35133, 82398, and 90199. The Department assigned the application number T-12164.
2. Notice of the application for transfer was published on September 22, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. In the initial review the department found that a temporary Transfer T-11386 exists and affects a portion of the lands modified by T-12164 and T-12172. T-11386 will terminate upon approval of T-12164 and T-12172.
4. On April 20, 2016, the Department sent a copy of the Draft Preliminary Determination proposing to approve Transfer Application T-12164 to the applicants. The Draft Preliminary Determination cover letter set forth a deadline of May 20, 2016, 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.

<p>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.</p>

5. On September 15, 2016, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12164 and sent a copy to the applicant(s). Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on September 20, 2016, and in the Burns Times-Herald newspaper on March 15 and 22, 2017, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The first right to be transferred is as follows:

Certificate: 35133 in the name of RYE GRASS RANCHES (perfected under Permit G-2117)
Use: IRRIGATION OF 157.0 ACRES
Priority Date: APRIL 18, 1962
Rate: 1.04 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, 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: WELL NO. 6 (AKA WELL 3) within the POISON CREEK SLOUGH BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	32 E	WM	29	NW NW	WELL NO. 6 (AKA WELL 3) (HARN 606) - 860 FEET SOUTH AND 1280 FEET EAST FROM THE NW CORNER OF SECTION 29

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	32 E	WM	29	NE NW	39.0
23 S	32 E	WM	29	NW NW	39.0
23 S	32 E	WM	29	SW NW	39.0
23 S	32 E	WM	29	SE NW	40.0
Total					157.0

7. Transfer Application T-12164 proposes additional points of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from authorized Well 6 (Well 3)
23 S	32 E	WM	30	SE NE	WELL 1 (HARN 609) - 120 FEET SOUTH AND 40 FEET EAST FROM THE CENTER OF THE NE¼ OF SECTION 30	2575 ft.
23 S	32 E	WM	30	NW NE	WELL 2 (HARN 52255) - 65 FEET SOUTH AND 2420 FEET WEST FROM THE NE CORNER OF SECTION 30	3760 ft.
23 S	32 E	WM	29	NE NW	WELL 4 (HARN 52179) - 770 FEET SOUTH AND 2310 FEET EAST FROM THE NW CORNER OF SECTION 29	1056 ft.

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

Certificate: 82398 in the name of JOHN PIERRE, ERNA ETHEL, AND LINDA K. WATTS (perfected under Permit G-6964)

Use: IRRIGATION OF 125.6 ACRES

Priority Date: AUGUST 24, 1976

Rate: 1.57 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) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Source: ONE WELL within the MALHEUR LAKE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	32 E	WM	30	SE NE	WELL 1 (HARN 609) - 120 FEET SOUTH AND 40 FEET EAST FROM THE CENTER OF THE NE¼ OF SECTION 30

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	32 E	WM	30	NE NE	31.4
23 S	32 E	WM	30	NW NE	31.4
23 S	32 E	WM	30	SW NE	31.4
23 S	32 E	WM	30	SE NE	31.4
Total					125.6

9. Transfer Application T-12164 proposes additional points of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from authorized Well 1
23 S	32 E	WM	30	NW NE	WELL 2 (HARN 52255) - 65 FEET SOUTH AND 2420 FEET WEST FROM THE NE CORNER OF SECTION 30	1840 ft.
23 S	32 E	WM	29	NW NW	WELL 3 (AKA WELL 6) (HARN 606) - 860 FEET SOUTH AND 1280 FEET EAST FROM THE NW CORNER OF SECTION 29	2575 ft.
23 S	32 E	WM	29	NE NW	WELL 4 (HARN 52179) - 770 FEET SOUTH AND 2310 FEET EAST FROM THE NW CORNER OF SECTION 29	2240 ft.

10. The third right to be transferred is as follows:

Certificate: 90199 in the name of JOHN PIERRE WATTS, ERNA ETHEL WATTS, AND LINDA KAY WATTS (perfected under Permit G-11830)

Use: IRRIGATION OF 30.6 ACRES

Priority Date: NOVEMBER 30, 1992

Rate: 0.38 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 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.

Period of Use: MARCH 1 TO OCTOBER 31

Source: A WELL within the SILVIES RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	32 E	WM	30	NW NE	WELL 1 (HARN 609) - 1313 FEET SOUTH AND 1377 FEET WEST FROM THE NE CORNER OF SECTION 30

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	32 E	WM	30	NE NE	8.1
23 S	32 E	WM	30	NW NE	4.8
23 S	32 E	WM	30	SW NE	8.7
23 S	32 E	WM	30	SE NE	9.0
Total					30.6

11. Certificate 90199 describes the point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	32 E	WM	30	NW NE	WELL 1 (HARN 609) - 1313 FEET SOUTH AND 1377 FEET WEST FROM THE NE CORNER OF SECTION 30

Certificate 82398 and the transfer application describe the same point of appropriation as:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	32 E	WM	30	SE NE	WELL 1 (HARN 609) - 120 FEET SOUTH AND 40 FEET EAST FROM THE CENTER OF THE NE¼ OF SECTION 30

For consistency, the point of appropriation will be described as:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	32 E	WM	30	SE NE	WELL 1 (HARN 609) - 120 FEET SOUTH AND 40 FEET EAST FROM THE CENTER OF THE NE¼ OF SECTION 30

12. Transfer Application T-12164 proposes additional points of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from authorized Well 1
23 S	32 E	WM	30	NW NE	WELL 2 (HARN 52255) - 65 FEET SOUTH AND 2420 FEET WEST FROM THE NE CORNER OF SECTION 30	1840 ft.
23 S	32 E	WM	29	NW NW	WELL 3 (AKA WELL 6) (HARN 606) - 860 FEET SOUTH AND 1280 FEET EAST FROM THE NW CORNER OF SECTION 29	2575 ft.
23 S	32 E	WM	29	NE NW	WELL 4 (HARN 52179) - 770 FEET SOUTH AND 2310 FEET EAST FROM THE NW CORNER OF SECTION 29	2240 ft.

Transfer Review Criteria (OAR 690-380-4010)

13. 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.
14. 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-12164.
15. The proposed changes would not result in enlargement of the rights.
16. The proposed changes would not result in injury to other water rights.
17. All other application requirements are met.

Conclusions of Law

The additional points of appropriation proposed in Transfer Application T-12164 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 additional points of appropriation proposed in Transfer Application T-12164 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 35133, 82398, and 90199 and any related decree.
3. Water right Certificates 35133, 82398, and 90199 are cancelled.
4. Temporary transfer T-11386 will be terminated upon approval of T-12164 and T-12172 and/or the initial termination date in the original order, whichever comes first.
5. The quantity of water diverted at the additional points of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.
6. 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.
7. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
8. 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.

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

Dated at Salem, Oregon this 27 day of April, 2017.



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

Mailing date: MAY 02 2017