

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING OF A
T-12510, Deschutes County)	CHANGE IN POINT 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.

Applicants

ANTHONY WILKINS, JR
VANESSA WILKINS
69620 OLD BARN COURT
SISTERS, OR 97759

LEE AND MARY MORGAN
69615 OLD BARN COURT
SISTERS, OR 97759

Findings of Fact

1. On October 20, 2016, ANTHONY WILKINS, JR, VANESSA WILKINS, LEE MORGAN, AND MARY MORGAN filed an application to change the point of appropriation under Certificate 89686. The Department assigned the application number T-12510.
2. Notice of the application for transfer was published on October 25, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 11, 2017, the Department identified a discrepancy in the quarter-quarter location of the authorized point of appropriation in the application submitted.
4. On May 11, 2017, the agent for the applicants clarified the quarter-quarter location of the authorized point of appropriation.

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 May 19, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-12510 the applicants. The draft Preliminary Determination cover letter set forth a deadline of June 19, 2017, for the applicants to respond.
6. On June 13, 2017, the applicant's agent submitted a revised application proposing a new well location.
7. On June 27, 2017, the Department contacted the applicant's agent requesting clarification of the change proposed in Transfer Application T-12510. The Agent clarified the discrepancy on the same day by submitting a revised Table 2 of the application.
8. On February 6, 2018, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12510 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 6, 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.
9. On June 18, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12510 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 June 19, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
10. The portion of the right to be transferred is as follows:

Certificate: 89686 in the name of RICK AND LINNEA KUHNHAUSEN, WILLIAM CARL AND TERESA JO HERZOG, AND RICHARD C. AND APRIL K. JOHNSON (perfected under Permit G-12942)

Use: IRRIGATION of 20.32 ACRES

Priority Date: FEBRUARY 14, 1995

Rate: 0.257 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 THROUGH OCTOBER 31 OF EACH YEAR

Source: ONE WELL within the WHYCHUS CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	10 E	WM	28	SW SE	230 FEET NORTH AND 1373 WEST FROM THE SE CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	10 E	WM	28	NE SE	0.15
14 S	10 E	WM	28	SE SE	20.17
TOTAL					20.32

11. Transfer Application T-12510 proposes to move the authorized point of appropriation approximately 643 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	10 E	WM	28	SW SE	POA 2 - 530 FEET NORTH AND 730 FEET WEST FROM THE SE CORNER OF SECTION 28

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 right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
13. The proposed well shall allow groundwater production only from the alluvial/glacial outwash aquifer.
14. A 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-12510.
15. The proposed change would not result in enlargement of the right.
16. The proposed change would not result in injury to other water rights.
17. All other application requirements are met.

Conclusions of Law

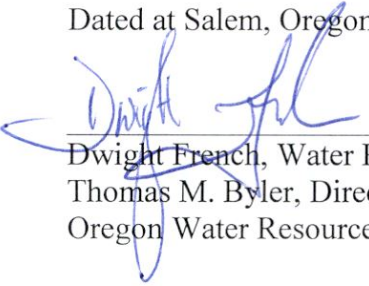
The change in point of appropriation proposed in Transfer Application T-12510 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in point of appropriation proposed in Transfer Application T-12510 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 89686 and any related decree.
3. Water right Certificate 89686 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 appropriation.
5. The proposed well shall allow groundwater production only from the alluvial/glacial outwash aquifer.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
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 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.
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 change 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, JUL 30 2018.


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

Mailing date: JUL 31 2018