

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

In the Matter of Transfer Application)
T-10949, Lake County)
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AMENDED
PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF A
CHANGE IN POINTS OF
APPROPRIATION AND PLACE OF
USE

Authority

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

Ron LaFranchi
580 North Central
Coquille, OR 97423

Agent

Dennis R. Glender
DBA Glender’s Hyrdro Tech Services
8664 SW Sand Ridge Rd
Crooked River Ranch, OR 97760

Findings of Fact

Background

1. On August 27, 2009, Ron LaFranchi filed an application to change the points of appropriation and to change the place of use under Certificates 47618 and 52623. The Department assigned the application number T-10949.
2. The portion of the first right to be transferred is as follows:

Certificate: 47618 in the name of Charles and Ilene Tompkins (perfected under Permit G-6696)
Use: IRRIGATION of 34.91 ACRES
Priority Date: OCTOBER 6, 1975
Rate: 0.44 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.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

Source: TOMPKINS WELL NO. 1, within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	14 E	WM	34	SW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	14 E	WM	34	NE NW	8.73
25 S	14 E	WM	34	NW NW	8.73
25 S	14 E	WM	34	SW NW	8.73
25 S	14 E	WM	34	SE NW	8.72

3. Transfer Application T-10949 proposes to move the authorized point of appropriation from approximately 1 to 1½ miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	21	NE SE	WELL A: 1326 FEET NORTH AND 1338 FEET WEST FROM THE SE CORNER OF SECTION 21

4. Transfer Application T-10949 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	21	SE SE	30.0
26 S	15 E	WM	21	SW SE	4.91

5. The portion of the second right to be transferred is as follows:

Certificate: 52623 in the name of Charles Tompkins (perfected under Permit G-7484)

Use: IRRIGATION of 23.25 ACRES

Priority Date: MAY 6, 1977

Rate: 0.29 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.

Source: WELL 2 within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	14 E	WM	34	SW NE	1320 FEET NORTH AND 1350 FEET WEST FROM THE EAST 1/4 CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	14 E	WM	34	NE NE	4.91
25 S	14 E	WM	34	NW NE	5.01
25 S	14 E	WM	34	SW NE	6.31
25 S	14 E	WM	34	SE NE	7.02

6. Transfer Application T-10949 proposes to move the authorized point of appropriation approximately 1 to 1½ miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	22	NE NW	WELL B: 1260 FEET SOUTH AND 1300 FEET EAST FROM THE NW CORNER OF SECTION 22
26 S	15 E	WM	21	NE SE	WELL A: 1326 FEET NORTH AND 1338 FEET WEST FROM THE SE CORNER OF SECTION 21

7. Transfer Application T-10949 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	21	SW SE	21.54
26 S	15 E	WM	22	SW NW	1.71

8. Notice of the application for transfer was published on September 8, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. On June 24, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10949 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 24, 2010, for the applicant to respond. The agent 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.
10. On August 5, 2010, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10949. The Preliminary Determination and Notice of Preliminary Determination contained a scrivener's error in the Section of the proposed point of appropriation location requiring an amended Preliminary Determination and Notice of Preliminary Determination to be issued.
11. On September 10, 2010, the applicant submitted a copy of a recorded correcting special warranty deed, dated August 31, 2010, wherein Kenneth V. Kruse and Kathleen G. Kruse conveyed to Ron LaFranchi that portion of the water rights authorized under Certificate Nos. 47618 and 52623 subject to transfer.

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-10949.
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.

Determination and Proposed Action

The changes in points of appropriation and changes in place of use proposed in Transfer Application T-10949 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If application T-10949 is approved, the final order will include the following:

1. *The changes in points of appropriation and changes in place of use proposed in application T-10949 are approved.*
2. *Upon issuance of the Final Order, Temporary transfer T-10373 is terminated.*
3. *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 47618 and 52623 any related decree.*
4. *Water right certificates 47618 and 52623 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
5. *The quantity of water diverted at the new points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.*
6. *The Director may require the water user to install a totalizing flow meter or other suitable measuring device at each point of appropriation. If the Director notifies the water user to install totalizing flow meters or other measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices.*
7. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
8. *The former places of use of the transferred rights shall no longer receive water under the rights.*
9. *The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. 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.

- 10. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 10th day of September 2010.


for Phillip C. Ward, Director

This Preliminary Determination was prepared by Carrie Jones. If you have questions about the information in this document, you may reach me at 541-523-8224 x 36 or Carrie.R.Jones@wrд.state.or.us.

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