



Oregon

Kate Brown, Governor

Water Resources Department

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November 20, 2015

VIA E-MAIL

ERNEST AND DIXIE. SHUFFIELD

PO BOX 85

SUMMER LAKE, OR 97640

sranch2000@yahoo.com

SUBJECT: Water Right Transfer Application T-12089

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12089. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the Department's

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0886 or Patrick.K.Starnes@wrdd.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst

Transfer and Conservation Section

cc: Transfer Application file T-12089
Brian M. Mayer, District 12 Watermaster (*via e-mail*)
Chaylon D. Shuffield, Agent for the applicant (*via e-mail*)

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12089, Lake County	)	PROPOSING APPROVAL OF
	)	CHANGES IN PLACE OF USE AND
	)	CORRECTION OF SCRIVENORS
	)	ERRORS ON A PORTION OF A
	)	WATER RIGHT

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

ERNEST AND DIXIE SHUFFIELD
PO BOX 85
SUMMER LAKE, OR 97640

Findings of Fact

1. On June 24, 2015, ERNEST AND DIXIE SHUFFIELD filed an application to change the place of use under Certificates 87464 and 87790. The Department assigned the application number T-12089.
2. Notice of the application for transfer was published on June 30, 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-12089 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 Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

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

Certificate: 87464 in the name of ERNEST AND DIXIE. SHUFFIELD (perfected under Permit G-5521)

Use: IRRIGATION OF 0.45 ACRE

Priority Date: FEBRUARY 3, 1972

Rate: 0.01 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: A WELL within the ANA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
29 S	17 E	WM	24	SE NW	SOUTH 43°40'04" EAST 1923.52 FEET FROM THE NW CORNER OF SECTION 24

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	17 E	WM	24	SW NW	0.45

5. Transfer Application T-12089 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	17 E	WM	24	NW NW	0.45

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

Certificate: 87790 in the name of ERNEST D. SHUFFIELD (perfected under Permit G-13246)

Use: IRRIGATION OF 5.44 ACRES

Priority Date: MAY 28, 1996

Rate: 0.068 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

Source: A WELL within the JOHNSON CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
29 S	17 E	WM	24	SW NW	SOUTH 43°40'4" EAST 1923.52 FEET FROM THE NW CORNER OF SECTION 24

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	17 E	WM	24	NE NW	2.50
29 S	17 E	WM	24	SW NW	0.44
29 S	17 E	WM	24	SE NW	2.50
Total					5.44

7. Certificate 87790 describes the location of the well, being within Johnson Creek Basin in the SWNW of Section 21, T. 29S, R. 17E, WM. After reviewing the mathematical calculations of the well location description, the department concluded there was a scrivener's error on certificate 87790. The actual well location being within the Ana River Basin in the SENW of Section 24, T. 29S, R. 17E, WM.
8. Transfer Application T-12089 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	17 E	WM	24	NW NW	5.44

Transfer Review Criteria (OAR 690-380-4010)

9. 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
10. 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-12089.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Determination and Proposed Action

The changes in place of use proposed in Transfer Application T-12089 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 Transfer Application T-12089 is approved, the final order will include the following:

- 1. The changes in place of use proposed in Transfer Application T-12089 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 87464 and 87790 and any related decree.*
- 3. Water right Certificates 87464 and 87790 are cancelled. New certificates will be issued to correct the scrivener's errors and describe those portions of the rights not affected by this transfer.*
- 4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 5. The former place of use of the transferred rights shall no longer receive water under the rights.*
- 6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2017**. 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.*
- 7. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 20th day of November, 2015.



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@wrdd.state.or.us

Protests should be addressed to the attention of Transfer and Conservation Section, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.