



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

November 23, 2015

VIA E-MAIL

WALTER AND DONNA BIANCHI
3220 ROUND LAKE RD
KLAMATH FALLS, OR 97601
racemagic38@gmail.com

SUBJECT: Water Right Transfer Application T-12051

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12051. 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 notice.

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@wrp.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst

Transfer and Conservation Section

cc: Transfer Application T-12051
Scott White, District 17 Watermaster (*via e-mail*)
Adkins Consulting Engineering, LLP, Agent/CWRE for the applicant (*via e-mail*)

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

In the Matter of Transfer Application)
T-12051, Klamath County)
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)
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**PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF A
CHANGE IN POINT OF
APPROPRIATION AND PLACE OF
USE**

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

**WALTER AND DONNA BIANCHI
3220 ROUND LAKE RD
KLAMATH FALLS, OR 97601**

Findings of Fact

1. On April 27, 2015, WALTER AND DONNA BIANCHI filed an application to change the point of appropriation and change the place of use under Certificates 65973 and 89547. The Department assigned the application number T-12051.
2. Notice of the application for transfer was published on May 5, 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-12051 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 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.
4. On October 15, 2015, the watermaster submitted a revised watermaster review form clarifying the requirement of a measuring device on the new point of appropriation only.

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.

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

Certificate: 65973 in the name of JACK ARMSTRONG (perfected under Permit G-10432)
Use: IRRIGATION OF 3.6 ACRES
Priority Date: SEPTEMBER 18, 1984
Rate: 0.04 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, 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: A WELL within the ROUND LAKE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	8 E	WM	7	SE NE	550 FEET NORTH AND 360 FEET WEST FROM THE E $\frac{1}{4}$ CORNER OF SECTION 7

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Type of Change
39 S	8 E	WM	7	SE NE	1.6	POU AND POA
39 S	8 E	WM	7	SE NE	2.0	POA

6. Transfer Application T-12051 proposes to move the authorized point of appropriation approximately 120 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	8 E	WM	7	SE NE	BIANCHI WELL (KLAM 14126) - 2350 FEET SOUTH AND 210 FEET WEST FROM THE NE CORNER OF SECTION 7

7. Transfer Application T-12051 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 E	WM	7	SE NE	1.6

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

Certificate: 89547 in the name of EMILY M. KARA (perfected under Permit G-13073)
Use: IRRIGATION of 3.3 ACRES
Priority Date: MAY 31, 1994
Rate: 0.04 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 and 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 ROUND LAKE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	8 E	WM	7	NE NE	(KLAM 14128) - 1140 FEET SOUTH AND 205 FEET WEST FROM THE NE CORNER OF SECTION 7

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 E	WM	7	NE NE	3.3

9. Transfer Application T-12051 proposes to move the authorized point of appropriation approximately 650 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	8 E	WM	7	SE NE	BIANCHI WELL (KLAM 14126) - 2350 FEET SOUTH AND 210 FEET WEST FROM THE NE CORNER OF SECTION 7

10. Transfer Application T-12051 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 E	WM	7	SE NE	3.3

Transfer Review Criteria (OAR 690-380-4010)

11. 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.
12. 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-12051.
13. The proposed changes would not result in enlargement of the rights.
14. The proposed changes would not result in injury to other water rights.

15. All other application requirements are met.

Determination and Proposed Action

The change in point of appropriation and change in place of use proposed in Transfer Application T-12051 appears 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-12051 is approved, the final order will include the following:

1. *The change in point of appropriation and change in place of use proposed in Transfer Application T-12051 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 65973 and 89547 and any related decree.*
3. *Water right Certificates 65973 and 89547 are cancelled. A new certificate will be issued describing that portion of Certificate 89547 not affected by this transfer*
4. *Water right Certificates 65973 and 89547 are cancelled.*
5. *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.*
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 the 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. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
7. *The former places of use of the transferred rights shall no longer receive water under the rights.*
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 24 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.