



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

April 5, 2016

VIA E-MAIL

JOSEPH C. WILLIAMS
70785 OLD EXPERIMENT RD
BURNS, OR 97720

SUBJECT: Water Right Transfer Application T-12123

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12123. 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 and in the Burns Herald Tribune newspaper, 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 last date of newspaper publication.

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 503-986-0892 or Joan.M.Smith@wrd.state.or.us if I may be of assistance.

Sincerely,

Joan Smith
Transfer Specialist
Transfer and Conservation Section
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cc: T-12123
J R. Johnson, District 10 Watermaster *(via e-mail)*
John A. Short, Agent for the applicant *(via e-mail)*
Robert Baxter, CWRE # 015 *(via e-mail)*

**OF THE
STATE OF OREGON**

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12123, Harney County)	PROPOSING APPROVAL OF AN
)	ADDITIONAL POINT OF
)	APPROPRIATION

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

JOSEPH C. WILLIAMS
70785 OLD EXPERIMENT RD
BURNS, OR 97720

Findings of Fact

1. On August 3, 2015, JOSEPH C. WILLIAMS filed an application for an additional point of appropriation under Certificate 89280. The Department assigned the application number T-12123.
2. Notice of the application for transfer was published on August 11, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 28, 2015, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12123 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 29, 2015, for the applicant to respond. The applicant 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.
4. The portion of the right to be transferred is as follows:
Certificate: 89280 in the name of JOSEPH C. WILLIAMS II (perfected under Permit U-58)
Use: IRRIGATION of 174.7 ACRES
Priority Date: JULY 27, 1931
Rate: 2.18 CUBIC FEET PER SECOND (CFS) being 1.20 CFS from Well 1 and 1.75 CFS from Well 3, in any combination, or its equivalent in case of rotation, measured at the well.

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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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 during the irrigation season of each year.

Source: TWO WELLS

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
23 S	32 E	WM	7	NE SW		WELL 1: 2025 FEET NORTH AND 1235 FEET EAST FROM THE SW CORNER OF SECTION 7
23 S	32 E	WM	7	SW SW	4	WELL 3: 734 FEET NORTH AND 268 FEET EAST FROM THE SW CORNER OF SECTION 7

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
23 S	32 E	WM	7	NE SW		40.0
23 S	32 E	WM	7	NW SW	3	30.3
23 S	32 E	WM	7	SW SW	4	24.4
23 S	32 E	WM	7	SE SW		40.0
23 S	32 E	WM	7	SW SE		40.0
Total						174.7

- Transfer Application T-12123 proposes an additional point of appropriation approximately as described below with approximate distances in feet from the approved points:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances	Approximate Distances in feet from Authorized Wells
23 S	32 E	WM	7	SW SW	4	Well 4: 1286 FEET NORTH AND 68 FEET EAST FROM SW CORNER OF SECTION 7	WELL 1: 1380 feet WELL 3: 585 feet

Transfer Review Criteria (OAR 690-380-4010)

- Certificate 89280 was issued within the last five years and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 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-12123.
- The proposed change as conditioned would not result in enlargement of the right.
- The proposed change as conditioned would not result in injury to other water rights.
- All other application requirements are met.

Determination and Proposed Action


The additional point of appropriation proposed in Transfer Application T-12123 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-12123 is approved, the final order will include the following:

- 1. The additional point of appropriation as proposed in Transfer Application T-12123 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 89280 and any related decree.*
- 3. Water right Certificate 89280 is cancelled.*
- 4. The quantity of water diverted at the additional point 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.*
- 5. 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) appropriation.*
 - 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.*
- 6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 7. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the wells shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.*
- 8. If the number, location, source, or construction of any well deviates from that proposed in the Transfer Application, this Transfer may be subject to cancellation, unless the Department authorizes the change in writing.*
- 9. Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.*

10. *Dedicated Measuring Tube: Wells with pumps shall be equipped with a minimum 3/4-inch diameter, unobstructed, dedicated measuring tube pursuant to figure 200-5 in OAR 690-200. If a pump has been installed prior to the issuance of this right, and if static water levels and pumping levels can be measured using an electrical tape, then the installation of the measuring tube can be delayed until such time that water levels cannot be measured or the pump is repaired or replaced.*
11. *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 change and full beneficial use of the water.*
12. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 6 day of April 2016.



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

This Preliminary Determination was prepared by Reimbursement Authority Contractor and reviewed by Department Staff. If you have any questions about the information in this document, you may contact Joan Smith at (503) 986-0892 or Joan.M.SMITH@wrд.state.or.us

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

Oregon Water Resources Department

Measurement Condition Information for the Applicant
(to be sent with the Draft Preliminary Determination or Final Order)

Transfer #: T-12123

- In order to avoid enlargement of the right or injury to other rights, a totalizing flow meter will be required to be installed **prior to diversion of water**, as a condition of this transfer:
 - at each point of diversion/appropriation (new and existing) or*
 - at each new point of diversion/appropriation.*

For additional information, or to obtain approval of a different type of measurement device, the applicant should contact the area Watermaster:

Watermaster name: JR Johnson

District: 10

Address: 450 N Buena Vista

City/State/Zip: Burns, OR 97720

Phone: 541 573 2764

Email: jr.johnson@wrд.state.or.us

Note: If a device other than the one specified in the Preliminary Determination or Final Order is approved by the Watermaster, fill out and mail the form below to the Salem office.

Approval of an Alternate Measurement Device T-
(to be filled out after consultation with the applicant, or after a site visit)

On behalf of the Director, I authorize use of the following suitable **alternate measurement device**:

Watermaster signature	District	Date
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If this form is used for approval of an alternative measurement device, it must be mailed to:

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266