

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

In the Matter of Transfer Application) **PRELIMINARY DETERMINATION**
T-12117, Marion, Yamhill County) **PROPOSING APPROVAL OF**
) **ADDITIONAL POINTS 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

MIKE AND CONNIE DAVIDSON, TRUSTEES
DAVIDSON LIVING TRUST
3988 DAVIDSON RD NE
SAINT PAUL, OR 97137

Findings of Fact

1. On July 31, 2015, MIKE AND CONNIE DAVIDSON, TRUSTEES, DAVIDSON LIVING TRUST, filed an application for additional points of appropriation under Certificate 40089. The Department assigned the application number T-12117.
2. Notice of the application for transfer was published on August 4, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 7, 2015 the Davidson Living Trust filed Groundwater Registration Modification T-12127. Proposed Well 1 for T-12127 is the same as proposed Well 1 on this application.
4. On December 23, 2015, the applicant's agent was informed that the proposed Well 1 would not be approved as requested.

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.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS: Active duty service members have a right to stay these proceedings under the federal Service Members Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

5. On January 26, 2016, the applicants' agent proposed to remove Well 1 for both Transfer Applications T-12117 and T-12127 and change the location of Well 2 for both Transfer Applications T-12117 and T-12127. On February 3, 2016, the applicants' agent submitted a revised application, removing Well 1 and modifying the location of Well 2.
6. On March 14, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12117 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 13, 2016, 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 applicants are authorized to pursue the transfer.
7. The right to be transferred is as follows:

Certificate: 40089 in the name of DAVIDSON FARMS INCORPORATED (perfected under Permit G-3655)

Use: SUPPLEMENTAL IRRIGATION OF 57.0 ACRES

Priority Date: APRIL 17, 1967

Rate: 0.56 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: A WELL within the WILLAMETTE RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	3 W	WM	25	SW SE	65	WELL 5: 570 FEET NORTH AND 440 FEET WEST FROM THE SE CORNER OF COYLE DLC 65

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	25	SE SW	65	10.10
4 S	3 W	WM	25	SW SE	65	28.00
4 S	3 W	WM	36	NW NE	65	12.60
4 S	3 W	WM	36	NE NW	65	6.30
Total						57.00

8. Transfer Application T-12117 proposes two additional points of appropriation, described as follows, with the approximate distances from the original well identified below:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Distance from Well
4 S	2 W	WM	31	NW NW	89	WELL 2: 415 FEET SOUTH AND 1170 FEET EAST FROM THE SW CORNER OF SECTION 30	3348 feet SE
4 S	3 W	WM	36	NE NW	65	WELL 3: 350 FEET SOUTH AND 2780 FEET WEST FROM THE SW CORNER OF SECTION 30	642 feet SW

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 right. There is no information in the record that would demonstrate that the right is 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 right were present within the five-year period prior to submittal of Transfer Application T-12117.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Determination and Proposed Action

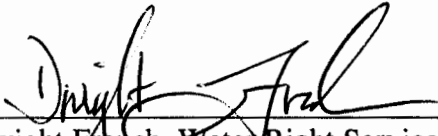
The additional points of appropriation proposed in Transfer Application T-12117 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12117 is approved, the final order will include the following:

1. *The additional points of appropriation proposed in Transfer Application T-12117 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 Certificate 40089 and any related decree.*
3. *Water right Certificate 40089 is cancelled.*
4. *The quantity of water diverted at the additional points of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*

5. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
6. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicants 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, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 21 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 Kerri H. Cope and Tracy Fox. If you have questions about the information in this document, you may contact Tracy Fox at 503-986-0827 or Tracy.L.Fox@wrdd.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

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

April 25, 2016

MIKE AND CONNIE DAVIDSON,
TRUSTEES DAVIDSON LIVING TRUST
3988 DAVIDSON RD NE
SAINT PAUL, OR 97137

SUBJECT: Water Right Transfer Application T-12117

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12117. 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.

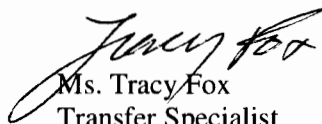
A public notice is being published in the Department's weekly publication and in the Woodburn Independent newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department 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 Tracy.L.Fox@ wrd.state.or.us or 503-986-0827 if I may be of assistance.

Sincerely,



Ms. Tracy Fox
Transfer Specialist
Transfer and Conservation Section

cc: T-12117
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
Doann Hamilton, Agent for the applicant (*via e-mail*)
enclosure