



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

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May 3, 2016

FLOWERREE HAY AND GRAIN LLC
PO BOX 820
BEND OR 97709

SUBJECT: Water Right Transfer Application T-12186

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12186. 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 Lake County Examiner 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 503-986-0886 or Patrick.K.Starnes@ wrd.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes

Transfer Program Analyst

Transfer and Conservation Section

cc: Transfer Application file T-12186
Brian M. Mayer, Watermaster, District 12 (*via e-mail*)
John A. Short, Agent 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	)	PRELIMINARY DETERMINATION
T-12186, Lake County	)	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

FLOWERREE HAY AND GRAIN LLC
PO BOX 820
BEND, OR 97709

Findings of Fact

1. On October 22, 2015, FLOWERREE HAY AND GRAIN LLC filed an application to change the point of appropriation and place of use under Certificate 90627. The Department assigned the application number T-12186.
2. Notice of the application for transfer was published on October 27, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 3, 2016, the Department sent a copy of the Draft Preliminary Determination proposing to approve Transfer Application T-12186 to the applicant. The Draft Preliminary Determination cover letter set forth a deadline of March 4, 2016, 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.

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 right to be transferred is as follows:

Certificate: 90627 in the name of RICHARD MOREHOUSE (perfected under Permit G-7996)

Use: IRRIGATION OF 40.0 ACRES

Priority Date: JANUARY 19, 1978

Rate: 0.5 CUBIC FOOT PER SECOND (CFS), FURTHER LIMITED TO 0.28 CFS FROM WELL A AND 0.42 CFS FROM WELL B, IN ANY COMBINATION

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: TWO WELLS within the FORT ROCK VALLEY BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	15 E	WM	15	SW NW	WELL A (LAKE 404) - 1340 FEET SOUTH AND 1340 FEET WEST FROM THE N¼ CORNER OF SECTION 15
26 S	15 E	WM	15	SW SW	WELL B (LAKE 405) - 4020 FEET SOUTH AND 1330 FEET WEST FROM THE N¼ CORNER OF SECTION 15

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	15 E	WM	15	NE NW	10.0
26 S	15 E	WM	15	NW NW	10.0
26 S	15 E	WM	15	SW NW	10.0
26 S	15 E	WM	15	SE NW	10.0
Total					40.0

5. Transfer Application T-12186 proposes to move the authorized point of appropriation approximately 19.2 miles from authorized Well A and 19.1 miles from authorized Well B to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	18 E	WM	26	SE SW	WELL (LAKE 52587) - 1327 FEET SOUTH AND 1335 FEET EAST FROM THE W¼ CORNER OF SECTION 26

6. Transfer Application T-12186 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	18 E	WM	26	NW SW	7.8
26 S	18 E	WM	26	SW SW	32.2
Total					40.0

Transfer Review Criteria (OAR 690-380-4010)

7. 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.
8. 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-12186.
9. The proposed changes would not result in enlargement of the right.
10. The proposed changes would not result in injury to other water rights.
11. All other application requirements are met.

Determination and Proposed Action

The change in point of appropriation and place of use proposed in Transfer Application T-12186 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-12186 is approved, the final order will include the following:

- 1. The change in point of appropriation and place of use proposed in Transfer Application T-12186 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 90627 and any related decree.*
- 3. Water right Certificate 90627 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 4. The quantity of water diverted at the new 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).*
 - 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. *The water user shall maintain a record of all water used each month, including the total number of hours of pumping, and the total quantity pumped. The record of use shall be submitted to the Department annually, or more frequently as may be required by the Director, and shall be submitted to the Watermaster upon request.*
7. *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.*
8. *Prior to use, the "To" and "From" POA wells shall be configured to allow strictly clean water (no oil) static water level measurements with an electric-tape. That can include measurement access via an unobstructed vertical discharge pipe that allows the groundwater level to fluctuate freely within the discharge pipe (no valves, etc.). Otherwise a dedicated measuring tube must be installed prior to use. The tube must be unobstructed, have a diameter of 3/4 in or greater, and pursuant to figure 200-5 in OAR 690-200.*
9. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
10. *The former place of use of the transferred right shall no longer receive water under the right.*
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 changes 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 3 day of May, 2016.



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@wrд.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.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>