



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

September 12, 2016

Glen and Rebecca Halvorson
17000 W Langell Valley Rd
Bonanza, OR 97623

SUBJECT: Water Right Transfer Application T-12348

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12348. 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 Herald and News** 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 Department's notice *or* 30 days after the last date of newspaper publication whichever is the later.

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

cc: T-12348
Tyler Martin, District 17 Watermaster (*via e-mail*)
Adkins Consulting Engineering, LLP, 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-12348, Klamath County) **PROPOSING APPROVAL OF AN**
) **ADDITIONAL POINT OF**
) **APPROPRIATION AND CHANGE IN**
) **PLACE OF USE**

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.

Applicant

GLEN AND REBECCA HALVORSON
17000 W LANGELL VALLEY RD
BONANZA, OR 97623

Findings of Fact

1. On April 20, 2016, Glen and Rebecca Halvorson filed an application for an additional point of appropriation and to change the place of use under Certificate 87661. The Department assigned the application number T-12348.
2. Notice of the application for transfer was published on April 26, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On Jun 21, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12348 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of July 21, 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 applicant is authorized to pursue the transfer.

4. The right to be transferred is as follows:

Certificate: 87661 in the name of GLEN AND REBECCA HALVORSON (perfected under Permit G-12455)
Use: IRRIGATION of 62.6 ACRES AND SUPPLEMENTAL IRRIGATION of 160.8 ACRES
Priority Date: APRIL 20, 1992
Rate: 0.74 CUBIC FOOT PER SECOND

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.

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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: April 15 to October 15

Source: A WELL within the LOST RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	13 E	WM	26	NW NE	WELL 1- 172 FEET SOUTH AND 2037 FEET WEST FROM THE NE CORNER OF SECTION 26

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	13 E	WM	23	SW SE	17.4
40 S	13 E	WM	26	NW NE	19.4
40 S	13 E	WM	26	SW NE	24.0
40 S	13 E	WM	26	SE NW	1.8
Total:					62.6

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	13 E	WM	23	SW SE	1.1
40 S	13 E	WM	23	SE SE	35.6
40 S	13 E	WM	26	NE NE	38.2
40 S	13 E	WM	26	NW NE	2.7
40 S	13 E	WM	26	SW NE	8.5
40 S	13 E	WM	26	SE NE	37.8
40 S	13 E	WM	26	NE SE	34.9
40 S	13 E	WM	26	NW SE	2.0
Total:					160.8

5. Transfer Application T-12348 proposes an additional point of appropriation approximately 2500 feet from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	13 E	WM	26	SW NE	WELL 2: 30 FEET NORTH AND 1180 FEET EAST FROM THE CENTER OF SECTION 26

6. Transfer Application T-12348 proposes to add the additional point of appropriation to all of the acres and change the place of use for a portion of the primary irrigation acres. The proposed changes are outlined in the tables below as follows:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Proposed Changes with Acres	
					APOD	POU
40 S	13 E	WM	23	SW SE	8.4	
40 S	13 E	WM	26	NW NE	11.0	--

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Proposed Changes with Acres	
					APOD	POU
40 S	13 E	WM	26	SW NE	24.0	--
40 S	13 E	WM	26	SW NE	17.4	--
40 S	13 E	WM	26	SE NW	1.8	--
Sub Totals:					54.2	8.4
Total:					62.6	

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Proposed Changes with Acres	
					APOD	POU
40 S	13 E	WM	23	SW SE	1.1	--
40 S	13 E	WM	23	SE SE	35.6	--
40 S	13 E	WM	26	NE NE	38.2	--
40 S	13 E	WM	26	NW NE	2.7	--
40 S	13 E	WM	26	SW NE	8.5	--
40 S	13 E	WM	26	SE NE	37.8	--
40 S	13 E	WM	26	NE SE	34.9	--
40 S	13 E	WM	26	NW SE	2.0	--
Total:					160.8	

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-12348.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

Determination and Proposed Action

The additional point of appropriation and change in place of use proposed in Transfer Application T-12348 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-12348 is approved, the final order will include the following:

- 1. The additional point of appropriation and change in place of use proposed in Transfer Application T-12348 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 87661 and any related decree.*
- 3. Water right Certificate 87661 is cancelled.*
- 4. The quantity of water diverted at the additional point 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. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this certificate, 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.*
- 6. If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may be subject to cancellation, unless the Department authorizes the change in writing.*
- 7. 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.*
- 8. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 9. The former place of use of the transferred right shall no longer receive water under the right.*
- 10. 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.*

11. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 12 day of Sept 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 please contact Joan.M.SMITH@wrp.state.or.us or call 503-986-0892

Protests should be addressed to the attention of Water Rights Services Division, 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>