



# Oregon

Kate Brown, Governor

## Water Resources Department

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May 10, 2017

### **Applicant**

BRUCE ALDRICH  
58290 HWY 78  
BURNS OR 97720

### **Agent**

JOHN A. SHORT  
PO BOX 1830  
BEND, OR 97709

**SUBJECT:** Water Right Transfer Application T-12362

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12362. 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 Times-Herald 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 [Jessica.L.Joye@oregon.gov](mailto:Jessica.L.Joye@oregon.gov) or by phone at (503)986-0814, if I may be of assistance.

Sincerely,

Jessica Joye  
Transfer Specialist,  
Transfer and Conservation Section

cc: T-12362  
JR Johnson, District #10 Watermaster (*via e-mail*)  
Linda Lee Miller, PO Box 901, Bend, OR 97709 CWRE #47708

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12362, Harney County	)	PROPOSING APPROVAL OF AN
	)	ADDITIONAL POINT OF
	)	APPROPRIATION AND A 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**

BRUCE ALDRICH  
58290 HWY 78  
BURNS, OR 97720

**Findings of Fact**

1. On April 29, 2016, BRUCE ALDRICH filed an application for an additional point of diversion and to change the place of use under Certificate 85697. The Department assigned the application number T-12362.
2. Notice of the application for transfer was published on May 3, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 15, 2017, the Department contacted John Short, the applicant's agent, by written correspondence to notify the applicant's agent of deficiencies in the application. Clarification was requested regarding a revised Land Use Information Form completed by the Harney County Planning Department to include Tax Lot 300. In addition, clarification was requested regarding contact information for a receiving landowner. The Department requested that the deficiencies be resolved by March 16, 2017.
4. On February 16, 2017, the Department received a response resolving the issues that were raised in the February 15, 2017 deficiency email.

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. On March 7, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12362 to the applicant and the applicant's agent to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided necessary information to demonstrate that the applicant is authorized to pursue the transfer.
6. The right to be transferred is as follows:

**Certificate:** 85697 in the name of BRUCE AND LAVON ALDRICH  
(perfected under Permit G-11232)

**Use:** IRRIGATION of 223.0 ACRES

**Priority Date:** JANUARY 2, 1991

**Rate:** 2.78 CUBIC FEET 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 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 (WELLS 3 AND 4) in the MALHEUR LAKE BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
25 S	33 E	WM	1	SE NW	6	WELL 3 - 2704 FEET NORTH AND 1365 FEET EAST FROM THE SW CORNER OF SECTION 1
25 S	33 E	WM	1	SE SW		WELL 4 - 1217 FEET NORTH AND 1370 FEET EAST FROM THE SW CORNER OF SECTION 1

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
25 S	33 E	WM	1	SW NW	5	23.4
25 S	33 E	WM	1	SE NW		13.7
25 S	33 E	WM	1	NE SW		39.5
25 S	33 E	WM	1	NW SW		40.0
25 S	33 E	WM	1	SW SW		37.7
25 S	33 E	WM	1	SE SW		27.4
25 S	33 E	WM	2	SE NE	8	4.3
25 S	33 E	WM	2	NE SE		23.9
25 S	33 E	WM	2	SE SE		13.1
TOTAL						223.0

7. Transfer Application T-12362 proposes an additional point of appropriation approximately 2800-3200 feet from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from original well locations measured in feet (ft)	
						Well 3	Well 4
25 S	33 E	WM	2	NW SE	WELL 5 - 1343 FEET NORTH AND 1491 FEET WEST FROM THE SE CORNER OF SECTION 2	3200	2800

8. Transfer Application T-12362 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
25 S	33 E	WM	1	NW NW	4	2.1
25 S	33 E	WM	1	SW NW	5	29.9
25 S	33 E	WM	1	SE NW	6	14.0
25 S	33 E	WM	1	NE SW		33.3
25 S	33 E	WM	1	NW SW		26.3
25 S	33 E	WM	1	SW SW		7.2
25 S	33 E	WM	1	SE SW		34.4
25 S	33 E	WM	1	NW SE		7.7
25 S	33 E	WM	1	SW SE		11.6
25 S	33 E	WM	2	SE NE	8	6.3
25 S	33 E	WM	2	NE SE		38.8
25 S	33 E	WM	2	NW SE		0.6
25 S	33 E	WM	2	SE SE		10.8
TOTAL						223.0

**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-12362.
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**

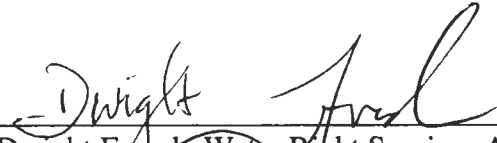
The additional point of appropriation and change in place of use proposed in Transfer Application T-12362 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

*If Transfer Application T-12362 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-12362 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 85697 and any related decree.*
- 3. Water right Certificate 85697 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 point 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.*
  - 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 points of appropriation.*
- 7. The former place of use of the transferred right shall no longer receive water under the right.*
- 8. 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 applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.*

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

Dated at Salem, Oregon this 9 day of May, 2017.

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

This Preliminary Determination was prepared by Jessica Joye. If you have questions about the information in this document, you may reach me at 503-986-0814 or Jessica.L.Joye@oregon.gov

*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>