



# Oregon

Kate Brown, Governor

## Water Resources Department

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June 15, 2017

LON G. WADEKAMPER  
29899 COUNTRY LANE  
HERMISTON, OR 97838

SUBJECT: Water Right Transfer Application T-12209

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12009. 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 East Oregonian 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-12209  
Greg Silbernagel, District #5 Watermaster (*via e-mail*)  
Ron Mckinnis, Agent for the applicant (*via e-mail*)  
Westland Irrigation District, 77096 OR-2017, Echo, OR 97826  
West Extension Irrigation District, P.O. Box 100, Irrigon, OR 97844

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12209, Umatilla 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**

LON G. WADEKAMPER  
29899 COUNTRY LANE  
HERMISTON, OR 97838

**Findings of Fact**

1. On November 25, 2015, LON G. WADEKAMPER filed an application for an additional point of appropriation and a change in place of use under Certificate 87466. The Department assigned the application number T-12209.
2. Notice of the application for transfer was published on December 8, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 25, 2015, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12209 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 5, 2017, 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 right to be transferred is as follows:

**Certificate:** 87466 in the name of LON G. WADEKAMPER  
(perfected under Permit G-7358)

**Use:** IRRIGATION of 9.8 ACRES

**Priority Date:** MAY 22, 1972

**Rate:** 0.11 CUBIC FOOT PER SECOND, AND IS FURTHER LIMITED TO NOT MORE THAN 9.8 ACRE-FEET PER MONTH DURING THE IRRIGATION SEASON, TO A MAXIMUM OF 29.4 ACRE-FEET PER SEASON.

**Limit/Duty:** The amount of water used for irrigation, together with 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:** A WELL, tributary to UMATILLA RIVER

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	28 E	WM	21	SW SW	WELL - 1750 FEET SOUTH AND 90 FEET EAST FROM THE W 1/4 CORNER OF SECTION 21

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	28 E	WM	20	SE NE	3.3
5 N	28 E	WM	20	NE SE	1.33
5 N	28 E	WM	20	SE SE	0.06
5 N	28 E	WM	21	SW NW	1.82
5 N	28 E	WM	21	NW SW	2.84
5 N	28 E	WM	21	SW SW	0.45
TOTAL					9.8

5. Transfer Application T-12209 proposes an additional point of appropriation approximately 4860 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	28 E	WM	29	SE SE	WELL 2 - 1030 FEET NORTH AND 10 FEET WEST FROM THE SE CORNER OF SECTION 29

6. Transfer Application T-12209 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	28 E	WM	29	NE SE	4.1
5 N	28 E	WM	29	SE SE	5.7
TOTAL					9.8

***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-12209.
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 additional point of appropriation and a change in place of use proposed in Transfer Application T-12209 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-12209 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-12209 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 87466 and any related decree.*
3. *Water right Certificate 87466 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. *Water use measurement conditions:*
  - a. *Before water use may begin under this order, the water user shall install a totalizing flow meters, 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. *Any well drilled under this water right shall not extend below an elevation of 100 feet above mean sea level. At the proposed additional point of appropriation location this equates to a maximum depth of approximately 350 feet below land surface.*
7. *Groundwater production in any well drilled under this water right shall be limited to a single aquifer in the Columbia River Basalt Group Lavas.*
8. *This water right shall be subject only to the allocation and distribution of the Sustainable Annual Yield of the Section 21 Subarea of the butter Creek Critical Groundwater Area.*
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, 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.*
12. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 14 day of June, 2017.

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

This draft Preliminary Determination was prepared by Jessica L. 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>