



Oregon
Kate Brown, Governor

Water Resources Department
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Salem, OR 97301
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June 22, 2017

VIA E_MAIL

GLENN S. CHOWNING
TERRA POMA LAND LLC
PO BOX 862
HERMISTON OR 97838
gchowning@charter.com

SUBJECT: Water Right Transfer Application T-12397

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12397. 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 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.

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@oregon.gov if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Program Analyst
Transfer and Conservation Section

cc: Transfer Application T-12397
Gregory M. Silbernagel, Watermaster 5 District *(via e-mail)*
Molly Reid, Agent for the applicant *(via e-mail)*

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4. On April 26, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12397 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 26, 2017, for the applicant to respond. The applicant requested the completion date be extended to October 1, 2020 and for 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.
5. The first right to be transferred is as follows:

Certificate: 86390 in the name of GLENN S. CHOWNING (perfected under Permit G-5952)
Use: IRRIGATION OF 15.0 ACRES
Priority Date: SEPTEMBER 12, 1975
Rate: 0.19 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, 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: HILLVIEW SUMP NO. 5 within the JUNIPER CANYON BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	13	SE NE	HILLVIEW SUMP NO. 5 - 3800 FEET NORTH AND 2460 FEET EAST FROM THE S¼ CORNER OF SECTION 13

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	SE SE	15.0

6. Transfer Application T-12397 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	NE NE	1.65
4 N	25 E	WM	13	SE NE	5.10
4 N	25 E	WM	13	NE SE	8.25
Total					15.00

7. The portion of the second right to be transferred is as follows:

- Certificate:** 86391 in the name of GLENN S. CHOWNING (perfected under Permit G-5953)
- Uses:** IRRIGATION OF 4.65 ACRES AND SUPPLEMENTAL IRRIGATION OF 15.0 ACRES
- Priority Date:** SEPTEMBER 12, 1975
- Rate:** 0.25 CUBIC FOOT PER SECOND (CFS), IN ANY COMBINATION, BEING NO MORE THAN 0.12 CFS FROM DEEP WELL NO. 2 AND 0.25 CFS FROM HILLVIEW WELL NO. 4
- 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. The right shall be limited to any deficiency in the available supply of any prior right for the same land and shall not exceed the limitation allowed herein.
- Sources:** DEEP WELL NO. 2 AND HILLVIEW WELL NO. 4, within the JUNIPER CANYON BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	13	SW NE	DEEP WELL NO. 2 - 330 FEET NORTH AND 1310 FEET EAST FROM THE C ¹ / ₄ CORNER OF SECTION 13
4 N	25 E	WM	13	SE NE	HILLVIEW WELL NO. 4 - 3840 FEET NORTH AND 2440 FEET EAST FROM THE S ¹ / ₄ CORNER OF SECTION 13

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	SE SE	4.65

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	SE SE	15.00

8. Transfer Application T-12397 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	NE SE	4.65

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	NE NE	1.65
4 N	25 E	WM	13	SE NE	5.10
4 N	25 E	WM	13	NE SE	8.25
Total					15.00

9. The portion of the third right to be transferred is as follows:

Certificate: 86496 in the name of GLENN S. CHOWNING (perfected under Permit G-9811)
Use: IRRIGATION OF 0.1 ACRE
Priority Date: FEBRUARY 4, 1982
Rate: 0.001 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, 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.
Sources: DEEP WELL NO. 2 AND HILLVIEW WELL NO. 4 within the UMATILLA RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	13	SW NE	DEEP WELL NO. 2 - 330 FEET NORTH AND 1310 FEET EAST FROM THE C ¹ / ₄ CORNER OF SECTION 13
4 N	25 E	WM	13	SE NE	HILLVIEW WELL NO. 4 - 3840 FEET NORTH AND 2440 FEET EAST FROM THE S ¹ / ₄ CORNER OF SECTION 13

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	SE SE	0.10

10. Transfer Application T-12397 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	NE SE	0.10

11. The portion of the fourth right to be transferred is as follows:

Certificate: 86497 in the names of TERRA POMA LAND CO. LLC AND GLENN CHOWNING (perfected under Permit G-13419)
Use: SUPPLEMENTAL IRRIGATION OF 19.75 ACRES
Priority Date: FEBRUARY 7, 1997
Rate: 0.13 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, 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.
Period of use: MARCH 1 THROUGH OCTOBER 31 OF EACH YEAR
Source: HILLVIEW SUMP WELL NO. 5 within the COLUMBIA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	13	SE NE	HILLVIEW SUMP WELL NO. 5 - 3800 FEET NORTH AND 2460 FEET EAST FROM THE S¼ CORNER OF SECTION 13

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	SE SE	19.75

12. Transfer Application T-12397 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	NE NE	1.65
4 N	25 E	WM	13	SE NE	5.10
4 N	25 E	WM	13	NE SE	13.00
Total					19.75

Transfer Review Criteria (OAR 690-380-4010)

13. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
14. Pumps, pipelines, and sprinkler systems sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-12397.
15. The proposed change would not result in enlargement of the rights.
16. The proposed change would not result in injury to other water rights.
17. All other application requirements are met.

Determination and Proposed Action

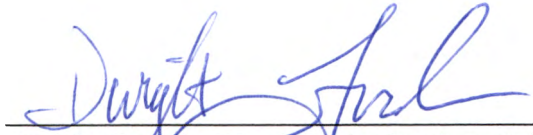
The change in place of use proposed in Transfer Application T-12397 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12397 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-12397 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 Certificates 86390, 86391, 86496, 86497, and any related decree.*
3. *Water Right Certificate 86390 is cancelled.*
4. *Water Right Certificates 86391 and 86496 are cancelled. New certificates will be issued describing those portion of these rights not affected by this transfer.*
5. *Water Right Certificate 86497 is cancelled. A new certificate will be issued describing the portion of the right not affected by this transfer and to correct the scrivener's error described in Finding of Fact No. 3.*
6. *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.*
7. *The former place of use of the transferred rights shall no longer receive water under the rights.*
8. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 23 day of June, 2017.



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@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>