



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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August 18, 2017

BEVERLY SAUCY

PO BOX 706

CRANE, OR 97732

SUBJECT: Water Right Transfer Application T-12347

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12347. 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 file T-12347

J. R. Johnson, District 10 Watermaster (*via e-mail*)

Scott D. Montgomery, Agent /CWRE 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-12347, Harney County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN 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

BEVERLY SAUCY - TRUSTEE
PO BOX 706
CRANE OR 97732

Findings of Fact

1. On April 18, 2016, BEVERLY SAUCY – TRUSTEE filed an application to change the point of appropriation and to change the place of use under Certificates 26687, 26688, 47805, and 64126. The Department assigned the application number T-12347.
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 September 16, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12347 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 17, 2016, for the applicant to respond. The applicant requested that the completion date be extended to October 1 2019 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.

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 first right to be transferred is as follows:

Certificate: 26687 in the name of HENRY C KELLEY (perfected under Permit U-470)

Use: IRRIGATION OF 30.0 ACRES

Priority Date: JUNE 13, 1952

Rate: 0.38 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, 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: ONE WELL, within the CRANE CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	34 E	WM	8	NW SE	530 FEET SOUTH AND 2950 FEET EAST FROM THE W¼ CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	8	NE SW	14.8
25 S	34 E	WM	8	NW SW	8.2
25 S	34 E	WM	8	NW SE	7.0
Total					30.0

5. Transfer Application T-12347 proposes to move the authorized point of appropriation approximately 8 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	34 E	WM	8	NW SE	538 FEET SOUTH AND 2950 FEET EAST FROM THE W¼ CORNER OF SECTION 8

6. Transfer Application T-12347 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	8	NE SW	5.6
25 S	34 E	WM	8	SE SW	2.0
25 S	34 E	WM	8	NW SE	15.5
25 S	34 E	WM	8	SW SE	6.9
Total					30.0

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

Certificate: 26688 in the name of HENRY C KELLEY (perfected under Permit G-548)

Use: IRRIGATION OF 30.0 ACRES

Priority Date: NOVEMBER 13, 1956

Rate: 0.38 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, 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 within the CRANE CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	34 E	WM	8	NW SE	530 FEET SOUTH AND 2950 FEET EAST FROM THE W1/4 CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	8	NE SW	13.8
25 S	34 E	WM	8	NW SW	8.8
25 S	34 E	WM	8	SW SW	0.6
25 S	34 E	WM	8	SE SW	3.8
25 S	34 E	WM	8	NW SE	3.0
Total					30.0

8. Transfer Application T-12347 proposes to move the authorized point of appropriation approximately 8 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	34 E	WM	8	NW SE	538 FEET SOUTH AND 2950 FEET EAST FROM THE W1/4 CORNER OF SECTION 8

9. Transfer Application T-12347 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	8	NE SW	7.2
25 S	34 E	WM	8	SE SW	4.6
25 S	34 E	WM	8	NW SE	10.4
25 S	34 E	WM	8	SW SE	7.8
Total					30.0

10. The third right to be transferred is as follows:

Certificate: 47805 in the name of CLAYTON KING (perfected under Permit G-5469)
Use: IRRIGATION OF 84.4 ACRES
Priority Date: AUGUST 30, 1972
Rate: 1.06 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, 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 within the CRANE CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	34 E	WM	8	NW SE	530 FEET SOUTH AND 2950 FEET EAST FROM THE W $\frac{1}{4}$ CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	8	NE SW	11.0
25 S	34 E	WM	8	NW SW	19.0
25 S	34 E	WM	8	SE SW	6.2
25 S	34 E	WM	8	NW SE	28.4
25 S	34 E	WM	8	SW SE	19.8
Total					84.4

11. Transfer Application T-12347 proposes to move the authorized point of appropriation approximately 8 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	34 E	WM	8	NW SE	538 FEET SOUTH AND 2950 FEET EAST FROM THE W $\frac{1}{4}$ CORNER OF SECTION 8

12. Transfer Application T-12347 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	8	NE SW	16.8
25 S	34 E	WM	8	NW SW	35.8
25 S	34 E	WM	8	SW SW	12.7
25 S	34 E	WM	8	SE SW	6.5
25 S	34 E	WM	8	NW SE	7.3
25 S	34 E	WM	8	SW SE	5.3
Total					84.4

13. The fourth right to be transferred is as follows:

Certificate: 64126 in the name of CLAYTON KING (perfected under Permit G-9992)

Use: IRRIGATION OF 39.8 ACRES

Priority Date: OCTOBER 6, 1982

Rate: 0.5 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, 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 within the MALHEUR LAKE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	34 E	WM	8	NW SE	530 FEET SOUTH AND 2950 FEET EAST FROM THE W $\frac{1}{4}$ CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	8	SW NE	34.4
25 S	34 E	WM	8	SE NW	5.4
Total					39.8

14. Transfer Application T-12347 proposes to move the authorized point of appropriation approximately 8 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	34 E	WM	8	NW SE	538 FEET SOUTH AND 2950 FEET EAST FROM THE W $\frac{1}{4}$ CORNER OF SECTION 8

15. Transfer Application T-12347 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	8	NW NE	3.1
25 S	34 E	WM	8	SW NE	28.7
25 S	34 E	WM	8	NE NW	0.2
25 S	34 E	WM	8	SE NW	7.8
Total					39.8

Transfer Review Criteria (OAR 690-380-4010)

16. 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.

17. A pump, pipeline, and sprinkler system 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-12347.
18. The proposed changes would not result in enlargement of the rights.
19. The proposed changes would not result in injury to other water rights.
20. All other application requirements are met.

Determination and Proposed Action

The change in point of appropriation and change in place of use proposed in Transfer Application T-12347 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-12347 is approved, the final order will include the following:

1. *The change in point of appropriation and change in place of use proposed in Transfer Application T-12347 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 26687, 26688, 47805, and 64126 and any related decree.*
3. *Water right Certificates 26687, 26688, 47805, and 64126 are cancelled.*
4. *The quantity of water diverted at the new 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 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 in good working order.*
 - c. *The water user shall allow the Watermaster access to the meters; provided however, where the meters 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 point 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, 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 changes 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 18 day of August, 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>