

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12414, Klamath County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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

LINDA LONG
PO BOX 803
CHILOQUIN, OR 97624

Agent

ATKINS CONSULTING ENGINEERING, LLP
2950 SHASTA WAY
KLAMATH FALLS, OR 97603

Receiving Landowners

RANDY AND CANDACE CALVERT
PO BOX 799
CHILOQUIN, OR 97624

ALLEN MAXFIELD
329 ISLAND AVE
NEWPORT BEACH, CA 92661

NICHOLAS BERCHEM
PO BOX 607
CHILOQUIN, OR 97624

CHRISTINE HALL
20860 N. TANTUM BLVD, STE 240
PHOENIX, AZ 85050

MICHAEL BOESCH
4484 SWEET STOWE PL
LAS VEGAS, NV 89147

MICHAEL HALL
2468 SE MULBERRY DR
MILWAUKIE, OR 97267

DAVID VHAY
5440 EASTLAKE BLVD
WASHOE VALLEY, NV 89704

DENNIS LINTHICUM
36590 HWY 140 E
BEATTY, OR 97621

FOUR A'S RANCH
C/O JILL MUNN
1237 S VICTORIA AVE, STE 512
CHANNEL ISLANDS, CA 93035

ERIC GALVIN
7591 ROCKHAMPTON AVE
LAS VEGAS, NV 89113

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.

Receiving Landowners

JENNIFER THOMASSON
1540 STRATFORD AVE
MEDFORD, OR 97504

JOHN JOHNSTON
4118 ROWLAND DR
FAIRFIELD, CA 94533

RUDY DORY FAMILY PROPERTIES LLC
704 NW HARMON BLVD
BEND, OR 97701

BARRY CRIVELLO
73-4341 PAPAANA PL
KAILUA-KONA, HI 96740

Findings of Fact

1. On June 20, 2016, Peter Bourdet and Linda Long filed an application to change the place of use under Certificate 90137. The Department assigned the application number T-12414.
2. Notice of the application for transfer was published on June 28, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice
3. On February 8, 2017, the Department contacted the applicant to let them know of the deficiencies in the application. The application referenced a superseded certificate.
4. On March 2, 2017, the agent submitted amended application pages and a revised map.
5. On April 20, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12414 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of May 20, 2017, for the applicants to respond.
6. On October 10, 2017, 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.
7. On October 18, 2017, the agent requested Peter Bourdet be removed from application.
8. On December 12, 2017, the Department contacted the Applicant's agent by email, requesting submission of a signed Land Use Form and a revised map.
9. On February 6, 2018, the Department received a revised map.
10. On February 12, 2018, the Department received a signed Land Use Form.
11. The portion of the right to be transferred is as follows:

Certificate: 90137 in the name of PETER M. BOURDET (perfected under Permit S-23654)
Use: IRRIGATION of 49.1 ACRES

Priority Date: JUNE 30, 1955

Rate: 1.23 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-FORTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Source: WILLIAMSON RIVER, tributary of UPPER KLAMATH LAKE

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
34 S	7 E	WM	22	SE NW	4	3930 FEET NORTH AND 2120 FEET EAST FROM THE NW CORNER OF SECTION 27

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
34 S	7 E	WM	22	SW NE		26.50
34 S	7 E	WM	22	SE NW	4	12.50
34 S	7 E	WM	22	NE SW	9	3.90
34 S	7 E	WM	22	NW SE	9	6.20
Total						49.1

12. Transfer Application T-12414 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
34 S	7 E	WM	27	NE NE	1	19.20
34 S	7 E	WM	27	NW NE	1	5.97
34 S	7 E	WM	27	SW NE	4	0.11
34 S	7 E	WM	27	SE NE	4	19.13
34 S	7 E	WM	27	NE SE	9	4.69
Total						49.1

Transfer Review Criteria [OAR 690-380-4010(2)]

13. 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.

14. 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-12414.

15. The proposed change would not result in enlargement of the right.

16. The proposed change would not result in injury to other water rights.

17. All other application requirements have been met.

Determination and Proposed Action

The change in place of use proposed in Transfer Application T-12414 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-12414 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-12414 is 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 90137 and any related decree.*
3. *Water right Certificate 90137 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *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 diversion (existing)*
 - b. *The water user shall maintain the meter or measuring device in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
5. *The former place of use of the transferred right shall no longer receive water under the right.*
6. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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.*
7. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon, FEB 14 2018 .



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

This Preliminary Determination was prepared by Jessica Joye. Duff Martin. If you have questions about the information in this document, you may reach me at 503-986-0827 or Duff.A.Martin@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>