

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12602, Marion County	)	PROPOSING APPROVAL OF
	)	ADDITIONAL POINTS OF
	)	APPROPRIATION

**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**

MIKE AND CONNIE DAVIDSON TRUSTEES, DAVIDSON LIVING TRUST  
3988 DAVIDSON RD NE  
SAINT PAUL, OR 97137

**Findings of Fact**

1. On March 2, 2017, MIKE AND CONNIE DAVIDSON TRUSTEES, DAVIDSON LIVING TRUST filed an application for additional points of appropriation under Certificate 39843. The Department assigned the application number T-12602.
2. Notice of the application for transfer was published on March 14, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 8, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12602 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 1, 2019, 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.
4. On March 19, 2018, the Department received a request from the applicant to change the deadline for full beneficial use of the water from October 1, 2019, to October 1, 2023.

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. The right to be transferred is as follows:

**Certificate:** 39843 in the name of CLAUDIO BUSTAMANTE (perfected under Permit G-2359)  
**Use:** IRRIGATION of 102.3 ACRES  
**Priority Date:** DECEMBER 14, 1962  
**Rate:** 1.28 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** Relocated Well No. 2

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	30	SE SW	89	WELL 1 (RELOCATED WELL NO. 2) - 4060 FEET SOUTH AND 2780 FEET WEST FROM THE NE CORNER OF LAMBERT DLC 63

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	30	SE NW	63	18.4
4 S	2 W	WM	30	NE SW	63	10.2
4 S	2 W	WM	30	NE SW	89	22.0
4 S	2 W	WM	30	SW SW	89	1.4
4 S	2 W	WM	30	SE SW	89	36.0
4 S	2 W	WM	31	NE NW	89	12.8
4 S	2 W	WM	31	NW NW	89	1.5
TOTAL						102.3

6. Transfer Application T-12602 proposes two additional points of appropriation, described as follows with the approximate distances from the existing point of appropriation identified:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Distance from original well location measured in miles (mi)
4 S	2 W	WM	31	NW NW	89	WELL 2 - 415 FEET SOUTH AND 1170 FEET EAST FROM THE NW CORNER OF SECTION 31	0.3 mi
4 S	3 W	WM	36	NE NW	65	WELL 3 - 350 FEET SOUTH AND 2780 FEET WEST FROM THE NE CORNER OF SECTION 36	1.0 mi

***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 was present within the five-year period prior to submittal of Transfer Application T-12602.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

**Determination and Proposed Action**

The additional points of appropriation proposed in Transfer Application T-12602 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-12602 is approved, the final order will include the following:*

1. *The additional points of appropriation proposed in Transfer Application T-12602 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 39843 and any related decree.*
3. *Water right Certificate 39843 is cancelled.*



4. *The quantity of water diverted at the additional points 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 shall be acquired from the same aquifer (water source) as the original point of appropriation.*
6. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. 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 this 12<sup>th</sup> day of April 2018.



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

This Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or [corey.a.courchane@oregon.gov](mailto:corey.a.courchane@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>