

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12525, Clackamas County	)	PROPOSING APPROVAL OF AN
	)	ADDITIONAL POINT 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**

DITCHEN BERRY FARM LLC  
9712 NUSOM RD  
SILVERTON, OR 97381

**Findings of Fact**

1. On November 28, 2016, DITCHEN BERRY FARM LLC filed an application for an additional point of appropriation under Certificate 91580. The Department assigned the application number T-12525.
2. Notice of the application for transfer was published on December 6, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 1, 2017, the applicant submitted an amended application and map clarifying the correct certificate involved in the transfer.
4. On December 13, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12525 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 15, 2017, for the applicant to respond. The applicant requested the completion date be extended to October 1, 2021 and for the Department to 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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5. The portion of the right to be transferred is as follows:

**Certificate:** 91580 in the name of KRAEMER FARMS (perfected under Permit G-11688)  
**Use:** IRRIGATION of 21.2 ACRES  
**Priority Date:** JUNE 19, 1990  
**Rate:** 0.08 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 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.  
**Period of Use:** MARCH 1 to OCTOBER 31  
**Source:** A WELL within the PUDDING RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	1 E	WM	3	NW SE	37	1930 FEET NORTH AND 1960 FEET EAST FROM THE SW CORNER OF BURBAGE DLC 37

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 E	WM	3	NE NW	37	10.9
6 S	1 E	WM	3	NW NW	37	1.6
6 S	1 E	WM	3	SW NW	37	2.1
6 S	1 E	WM	3	SE NW	37	6.6
Total						21.2

6. Transfer Application T-12525 proposes an additional point of appropriation approximately 1120 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	1 E	WM	3	NE SW	37	1960 FEET NORTH AND 780 FEET EAST FROM THE SW CORNER OF BURBAGE DLC 37

**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-12525.
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.

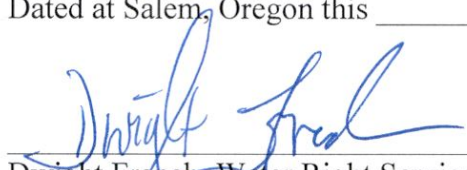
## Determination and Proposed Action

The additional point of appropriation proposed in Transfer Application T-12525 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-12525 is approved, the final order will include the following:*

- 1. The additional point of appropriation proposed in Transfer Application T-12525 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 91580 and any related decree.*
- 3. Water right Certificate 91580 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 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 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, 2021**. 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 APR 12 2018

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

This Preliminary Determination was prepared by Arla Heard. If you have questions about the information in this document, you may reach me at 503-986-0806 or [arla.l.heard@oregon.gov](mailto:arla.l.heard@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>