

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12536, Harney 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

MARY H. CARPENTER
29328 WEAVER SPRINGS LN
BURNS, OR 97720

Findings of Fact

1. On December 14, 2016, MARY H. CARPENTER filed an application for an ADDITIONAL POINT OF APPROPRIATION under Certificates 65752 and 89368. The Department assigned the application number T-12536.
2. Notice of the application for transfer was published on December 27, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 20, 2017, the applicant submitted an amended application and map.
4. On November 20, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12536 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 20, 2017, 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.

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 first right to be transferred is as follows:

Certificate: 65752 in the name of DOUG AND DELORES STILLS (perfected under Permit G-1530)
Use: IRRIGATION of 55.2 ACRES
Priority Date: NOVEMBER 27, 1959
Rate: 0.69 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) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.
Source: WELL 5 within the WEST FORK SILVIES RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	30 E	WM	34	NW NE	WELL 5 - 660 FEET SOUTH AND 700 FEET EAST FROM THE NORTH 1/4 CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	30 E	WM	34	NE NE	22.4
25 S	30 E	WM	34	NW NE	32.8
Total					55.2

6. Transfer Application T-12536 proposes an additional point of appropriation approximately 0.72 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	30 E	WM	34	SW NW	WELL 4B - 2640 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 35

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

Certificate: 89368 in the name of DOUGLAS H. AND DELORIS L. STILLS AND NORTHWEST FARM CREDIT SERVICES, ACA (perfected under Permit G-11242)
Use: IRRIGATION of 207.2 ACRES
Priority Date: JANUARY 23, 1991
Rate: 2.59 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 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: FOUR WELLS within the SAGEHEN CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	30 E	WM	27	SE NW	WELL 1 - 70 FEET NORTH AND 10 FEET WEST FROM THE CENTER 1/4 CORNER OF SECTION 27
25 S	30 E	WM	27	NW SE	WELL 2 - 1230 FEET SOUTH AND 510 FEET EAST FROM THE CENTER 1/4 CORNER OF SECTION 27
25 S	30 E	WM	34	NW NE	WELL 3 - 1155 FEET SOUTH AND 1420 FEET WEST FROM THE NE CORNER OF SECTION 34
25 S	30 E	WM	35	NW NW	WELL 4 - 40 FEET SOUTH AND 670 FEET EAST FROM THE NW CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	30 E	WM	34	NE NE	10.4
25 S	30 E	WM	34	SW NE	32.8
25 S	30 E	WM	34	SE NE	32.8
25 S	30 E	WM	35	NE NW	32.8
25 S	30 E	WM	35	NW NW	32.8
25 S	30 E	WM	35	SW NW	32.8
25 S	30 E	WM	35	SE NW	32.8
Total					207.2

8. Transfer Application T-12536 proposes an additional point of appropriation approximately 1.25 miles from WELL 1, 1.0 mile from WELL 2, 0.6 mile from WELL 3, and 0.5 mile from WELL 4 to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	30 E	WM	34	SW NW	WELL 4B - 2640 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 35

Transfer Review Criteria (OAR 690-380-4010)

9. 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.
10. 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-12536.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Determination and Proposed Action

The additional point of appropriation proposed in Transfer Application T-12536 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-12536 is approved, the final order will include the following:

1. *The additional point of appropriation proposed in Transfer Application T-12536 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 Certificates 65752 and 89368 and any related decree.*
3. *Water right Certificate 65752 is cancelled.*
4. *Water right Certificate 89368 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer and cancellation.*
5. *The quantity of water diverted at the additional point of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.*
6. *Water use measurement conditions:*
 - a. *Before water use may begin under this order, the water user shall install totalizing flow meters, or, with prior approval of the Director, other suitable measuring devices 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. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
8. *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.*

9. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this APR 25 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.

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>