

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12841, Crook County	)	PROPOSING APPROVAL OF
	)	ADDITIONAL POINTS OF
	)	APPROPRIATION AND A CHANGE
	)	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**

FRYER CREEK RANCH LLC  
40791 SE SHOTGUN RD  
POST, OR 97752

**Findings of Fact**

1. On February 8, 2018, FRYER CREEK RANCH LLC filed an application for additional points of appropriation and to change the place of use under Certificates 87791, 87793, and 93545. The Department assigned the application number T-12841.
2. Notice of the application for transfer was published on February 13, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 16, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12841 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 16, 2018, for the applicant to respond. The applicant requested that the Department extend the completion date to October 1, 2021 and to proceed with issuance of a Preliminary Determination. The applicant 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:** 87791 in the name of SHOTGUN RANCH LLC; CAL CANNON  
(perfected under Permit G-13781)  
**Use:** IRRIGATION OF 45.0 ACRES  
**Priority Date:** MARCH 29, 1999  
**Rate:** 0.563 CUBIC FOOT PER SECOND  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right exiting for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, 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.  
**Period of Use:** June 1 through October 15  
**Source:** A WELL, in the CROOKED RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	19 E	WM	2	NE NW	3	1235 FEET SOUTH AND 5 FEET WEST FROM THE N1/4 CORNER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
17 S	19 E	WM	2	NW NE	2	31.0
17 S	19 E	WM	2	SW NE		11.0
17 S	19 E	WM	2	NE NW	3	3.0
TOTAL						45.0

5. Transfer Application T-12841 proposes additional points of appropriation with approximate distances from the existing point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances	Distance from original well location measured in feet (ft)
17 S	19 E	WM	1	NW NW	4	WELL #2 - 90 FEET SOUTH AND 10 FEET EAST FROM THE NW CORNER OF SECTION 1	2800
17 S	19 E	WM	2	NW NW	4	WELL #3 - 180 FEET SOUTH AND 1110 FEET EAST FROM THE NW CORNER OF SECTION 2	1750

6. Transfer Application T-12841 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
17 S	19 E	WM	2	NW NE	2	5.3
17 S	19 E	WM	2	SW NE		3.2
17 S	19 E	WM	2	SE NE		0.8
17 S	19 E	WM	2	NE SE		12.1
17 S	19 E	WM	2	NW SE		23.6
TOTAL						45.0

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

**Certificate:** 87793 in the name of SHOTGUN RANCH LLC; CAL CANNON  
(perfected under Permit G-15567)  
**Use:** IRRIGATION OF 49.0 ACRES  
**Priority Date:** MARCH 10, 2003  
**Rate:** 0.50 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 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.  
**Period of Use:** April 1 through September 30  
**Source:** A WELL, in the CROOKED RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	19 E	WM	1	NW NW	WELL 2 - 90 FEET SOUTH AND 10 FEET EAST FROM THE NW CORNER OF SECTION 1

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
17 S	19 E	WM	2	NE NE	1	33.0
17 S	19 E	WM	2	NW NE	2	7.8
17 S	19 E	WM	2	SW NE		1.4
17 S	19 E	WM	2	SE NE		6.8
TOTAL						49.0

8. Transfer Application T-12841 proposes additional points of appropriation with approximate distances from the existing point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances	Distance from original well location measured in feet
17 S	19 E	WM	2	NE NW	3	WELL #1 - 1235 FEET SOUTH AND 5 FEET WEST FROM THE N1/4 CORNER OF SECTION 2	2800
17 S	19 E	WM	2	NW NW	4	WELL #3 - 180 FEET SOUTH AND 1110 FEET EAST FROM THE NW CORNER OF SECTION 2	4000

9. Transfer Application T-12841 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
17 S	19 E	WM	2	NE NE	1	20.7
17 S	19 E	WM	2	NW NE	2	0.7
17 S	19 E	WM	2	SW NE		0.1
17 S	19 E	WM	2	SE NE		13.0
17 S	19 E	WM	2	NE NW	3	14.5
TOTAL						49.0



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

**Certificate:** 93545 in the name of SHOTGUN RANCH, LLC  
(perfected under Permit G-17307)  
**Use:** IRRIGATION OF 32.0 ACRES  
**Priority Date:** MARCH 27, 2014  
**Rate:** 0.38 CUBIC FOOT PER SECOND  
**Limit/Duty:** The amount of water used for irrigation under this right, 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 and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.  
**Period of Use:** April 15 through October 31  
**Source:** WELL 3, in CROOKED RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	19 E	WM	2	NW NW	4	180 FEET SOUTH AND 1110 FEET EAST FROM THE NW CORNER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
17 S	19 E	WM	2	SW NE		3.0
17 S	19 E	WM	2	NE NW	3	17.9
17 S	19 E	WM	2	NW NW	4	11.1
TOTAL						32.0

11. Transfer Application T-12841 proposes additional points of appropriation with approximate distances form the exiting point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances	Distances from original well location measured in feet (ft)
17 S	19 E	WM	2	NE NW	3	WELL #1 - 1235 FEET SOUTH AND 5 FEET WEST FROM THE N1/4 CORNER OF SECTION 2	1750
17 S	19 E	WM	1	NW NW	4	WELL #2 - 90 FEET SOUTH AND 10 FEET EAST FROM THE NW CORNER OF SECTION 1	4000

12. Transfer Application T-12841 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
17 S	19 E	WM	2	NW NE	2	19.0
17 S	19 E	WM	2	SW NE		11.0
17 S	19 E	WM	2	NW NW	4	2.0
TOTAL						32.0

**Transfer Review Criteria (OAR 690-380-4010)**

13. 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.

14. 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-12841.
15. The proposed change would not result in enlargement of the rights.
16. The proposed change would not result in injury to other water rights.
17. All other application requirements are met.

### **Determination and Proposed Action**

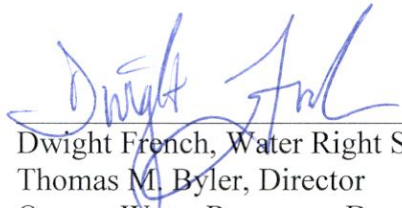
The additional points of appropriation and change in place of use proposed in Transfer Application T-12841 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

*If Transfer Application T-1284 is approved, the final order will include the following:*

1. *The additional points of appropriation and change in place of use proposed in Transfer Application T-12841 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 87791, 87793, and 93545 and any related decree.*
3. *Water right Certificates 87791, 87793, and 93545 are cancelled.*
4. *The quantity of water diverted at the additional points 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.*
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 new point of appropriation.*
  - 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.*
6. *Water shall be acquired from the same aquifer (water source) as the original points 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, 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 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,           MAY 09 2018          .



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

This Preliminary Determination was prepared by Jessica Joye. If you have questions about the information in this document, you may reach me at 503-986-0814 or [Jessica.L.Joye@oregon.gov](mailto:Jessica.L.Joye@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>