

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

In the Matter of Transfer Application) PRELIMINARY DETERMINATION
T-12730, Lake County) PROPOSING APPROVAL OF A
) CHANGE IN 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

LEON E. AND BETTY JUNE BAKER
PO BOX 65
SILVER LAKE OR 97638

Agent

SCOTT D. MONTGOMERY
PO BOX 767
TERREBONE OR 97760

Findings of Fact

1. On August 16, 2017, Leon and Betty Baker filed an application to change the place of use under Certificate 66571. The Department assigned the application number T-12730.
2. Notice of the application for transfer was published on August 29, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 21, 2018, the Department issued a draft Preliminary Determination proposing to approve Transfer Application T-12730. The draft Preliminary Determination cover letter set forth a deadline of April 20, 2018, for the applicant to respond. On May 21, 2018, the agent for the applicants agreed to the terms and conditions of the draft Preliminary Determination, requested the Department proceed with issuance of the Preliminary Determination and provided the necessary information to demonstrate that the applicants are 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.

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

Certificate: 66571 in the name of LEON E BAKER (confirmed by Permit G-10712)
Use: IRRIGATION OF 30.9 ACRES
Priority Date: DECEMBER 15, 1986
Rate: 0.38 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: A WELL, within the FORK ROCK BASIN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distance
27 S	13 E	WM	22	NW SE	10 FEET NORTH AND 1310 FEET EAST FROM THE SW CORNER OF THE NW¼ SE¼ OF SECTION 22

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	13 E	WM	22	SW NE	22.5
27 S	13 E	WM	22	NW SE	8.4
Total					30.9

5. Transfer Application T-12730 proposes to change the place of use to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
27 S	13 E	WM	22	SE NW	804	10.3
27 S	13 E	WM	22	NE SW	1000	20.6
Total						30.9

Transfer Review Criteria (OAR 690-380-4010)

6. Water has been used within the last five years prior to the submittal of Transfer Application T-12730 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.
7. A well, 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-12730.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights
10. All other application requirements are met.

Determination and Proposed Action

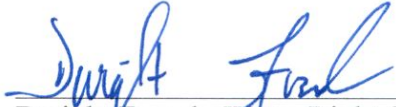
The change in place of use proposed in Transfer Application T-12730 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12730 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-12730 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 66571 and any related decree.*
3. *Water Right Certificate 66571 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 appropriation (new and existing) appropriation.*
 - 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. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
6. *The former place of use of the transferred right shall no longer receive water under the right.*
7. *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.*

8. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this JUN 04 2018,



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

This Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or Ken.D.Dowden@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>