

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

In the Matter of Transfer Application)
T-12872, Klamath County)
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)
)

PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF AN
ADDITIONAL POINT OF
APPROPRIATION AND 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

LARRY AND JOAN SEES
PO BOX 238
BEATTY, OR 97621

Findings of Fact

1. On March 22, 2018, LARRY AND JOAN SEES filed an application for an additional point of appropriation and to change the place of use under Certificates 38086 and 76361. The Department assigned the application number T-12872.
2. Notice of the application for transfer was published on March 27, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 3, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12872 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of June 4, 2018, for the applicants to respond. The applicants 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. The portion of the first right to be transferred is as follows:

Certificate: 38086 in the name of HOMER AND INEZ DELAMATER
(perfected under Permit G-3547)
Use: IRRIGATION of 9.9 ACRES
Priority Date: DECEMBER 19, 1966

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.

Rate: 0.09 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, 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL, within the SPRAGUE RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
36 S	12 E	WM	22	NE NW	930 FEET SOUTH AND 2430 FEET EAST FROM THE NW CORNER OF SECTION 22

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	12 E	WM	22	SW NW	9.2
36 S	12 E	WM	22	NW SW	0.7
TOTAL					9.9

5. Transfer Application T-12872 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	12 E	WM	21	NE NE	9.7
36 S	12 E	WM	21	SE NE	0.2
TOTAL					9.9

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

Certificate: 76361 in the name of TERRY AND DESSA LEA HAGER (perfected under Permit G-10140)

Use: IRRIGATION of 102.47 ACRES

Priority Date: APRIL 22, 1983

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, 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.

Source: A WELL, in the SPRAGUE RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
36 S	12 E	WM	21	NE NE	100 FEET SOUTH AND 30 FEET WEST FROM THE NE CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	12 E	WM	21	NE NE	40.00
36 S	12 E	WM	21	SE NE	40.00
36 S	12 E	WM	21	NE SE	22.47
TOTAL					102.47

7. Transfer Application T-12872 proposes an additional point of appropriation approximately 2600 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
36 S	12 E	WM	22	NE NW	APOA - 930 FEET SOUTH AND 2430 FEET EAST FROM THE NW CORNER OF SECTION 22

8. Transfer Application T-12872 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	12 E	WM	21	NE NE	30.30
36 S	12 E	WM	21	SE NE	39.80
36 S	12 E	WM	21	NE SE	22.47
36 S	12 E	WM	22	SW NW	9.20
36 S	12 E	WM	22	NW SW	0.70
TOTAL					102.47

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-12872.
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

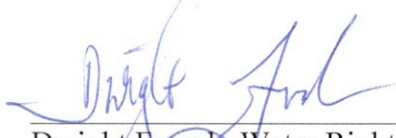
The additional point of appropriation and change in place of use proposed in Transfer Application T-12872 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12872 is approved, the final order will include the following:

- 1. The additional point of appropriation and change in place of use proposed in Transfer Application T-12872 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 38086 and 76361 and any related decree.*
- 3. Water right Certificates 38086 and 76361 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
- 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 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).*
 - 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 rights shall no longer receive water under the rights.*
- 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 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, JUN 08 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

Protests should be addressed to the attention of Water Rights 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>