

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12309, Marion County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACE OF USE

**Authority**

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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**

CROSSROADS LAND, LLC  
8648 CROSBY RD NE  
WOODBURN, OR 97071

**Findings of Fact**

1. On March 14, 2016, CROSBY LAND CO., LLC filed an application to change from a surface water point of diversion to a groundwater point of appropriation under Certificate 22655. The Department assigned the application number T-12309.
2. Notice of the application for transfer was published on March 22, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 10, 2016, the Department determined the proposed point of appropriation will not affect the surface water source "similarly", as outlined by OAR 690-380-2130(2)(c) and 11(b), and cannot be considered the same source. Also, it was determined that the proposed point of appropriation will result in an increase in interference with Permit G-13143.
4. On June 30, 2016, the Department received a written request from the Applicant's agent requesting to place Transfer Application T-12309 on a 180-day administrative hold, to allow for consideration and submission of an amended application to address the unfavorable groundwater review.
5. On July 1, 2016, the Department approved an administrative hold of 180-days for Transfer Application T-12309 until December 27, 2016.

6. On December 27, 2016, the Department received a written request from the Applicant's agent requesting to place Transfer Application T-12309 on a 180-day administrative hold, to allow additional time for the applicant to select a proposed well location and to submit an amended application.
7. On January 19, 2017, the Department approved an administrative hold of 180-days for Transfer Application T-12309 until July 18, 2017.
8. On August 7, 2017, the Department received an amended application and map, proposing to change from a surface water point of diversion to a groundwater point of appropriation and to change the place of use of 13.4 acres under Certificate 22655.
9. On January 16, 2017, the Department determined the proposed point of appropriation will not affect the surface water source of the authorized point of diversion "similarly", as outlined in OAR 690-380-2130(2)(c) and 11(b). Stream depletion modeling with the Hunt 2003 analytical model, using a realistic range of hydrologic parameters for the aquifer and Seneca Creek, indicates that the proposed point of appropriation will not affect the surface water source similarly.
10. On February 6, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-12309 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 8, 2018, for the applicant to respond.
11. On March 7, 2018, the applicant's agent submitted an additional page of the application, assigning Blake Crosby as a receiving landowner, a report of ownership for the lands proposed for transfer under Certificate 22655, and a request to remove from the application the change from a surface water point of diversion to a groundwater point of appropriation.
12. On March 7, 2018, the Department contacted the applicant's agent for clarification of the current ownership of the authorized lands and proposed place of use. The Department requested removal of the change from a surface water point of diversion to a groundwater point of appropriation from the map and Table 1 of the application, submission of an amended map and table 1 of the application for a change in place of use only, and a signature page of the application signed by Blake Crosby for Crossroads Land, LLC, deeming Crossroads Land, LLC as the applicant.
13. On April 9, 2018, the Department received an amended application map.
14. On April 10, 2018, the Department received an amended application in the name of Crossroads Land, LLC.

15. On April 27, 2018, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12309 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of May 28, 2018, for the applicant to respond. The applicants would like the completion date to be extended to October 1, 2021, and 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

16. The right to be transferred is as follows:

**Certificate:** 22655 in the name of O.C. LESTER, JR (perfected under Permit S-18969)  
**Use:** IRRIGATION of 13.4 ACRES  
**Priority Date:** SEPTEMBER 8, 1949  
**Rate:** 0.17 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** SENECALE CREEK, a tributary of DEER CREEK

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC
4 S	1 W	WM	30	NE SE	58

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	1 W	WM	29	SW NW	58	8.6
4 S	1 W	WM	29	NW SW	58	2.4
4 S	1 W	WM	30	SE NE	58	0.4
4 S	1 W	WM	30	NE SE	58	2.0
TOTAL						13.4

17. Transfer Application T-12309 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	1 W	WM	29	SW NW	58	10.3
4 S	1 W	WM	29	NW SW	58	0.8
4 S	1 W	WM	30	SE NE	58	0.9
4 S	1 W	WM	30	NE SE	58	1.4
TOTAL						13.4

**Transfer Review Criteria [OAR 690-380-2130 and OAR 690-380-4010(2)]**

18. 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.

19. 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-12309.
20. The proposed change would not result in injury to other water rights.
21. The proposed change would not result in enlargement of the right.
22. All other application requirements are met.

### **Determination and Proposed Action**

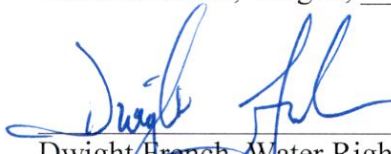
The change in place of use proposed in Transfer Application T-12309 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-12309 is approved, the final order will include the following:*

1. *The change in place of use proposed in Transfer Application T-12309 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 22655 and any related decree.*
3. *Water right Certificate 22655 is cancelled.*
4. *The former place of use of the transferred right shall no longer receive water under the right.*
5. *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.*

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

Dated at Salem, Oregon, JUN 14 2018.



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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 any questions about the information in this draft preliminary determination, 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 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>