

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12595, Lake County)	PROPOSING APPROVAL OF A
)	CHANGE IN 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

WILD WATERS REVOCABLE LIVING TRUST
5252 MILL CREEK RD.
HEALDSBURG, CA 95448

Agent

HOLLIE CANNON
WATER RIGHT SOLUTIONS, LLC
3246 HAMMER ST.
KLAMATH FALLS, OR 97603

Findings of Fact

1. On February 27, 2017, John Anthony Cutino II and Susan Giselle Cutino, Trustees, WILD WATERS REVOCABLE LIVING TRUST, filed an application proposing to change the point of appropriation and to change the place of use under portions of Certificate 91901. The Department assigned the application number T-12595.
2. Notice of the application for transfer was published on March 7, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 30, 2018, the Department issued a draft Preliminary Determination proposing to approve Transfer Application T-12595. The draft Preliminary Determination cover letter set forth a deadline of May 30, 2018, for the applicant to respond. On May 9, 2018, the applicant 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 applicant is authorized to pursue the transfer.
4. On May 1, 2018, the agent for the applicant requested that the proposed date for complete application of water be extended to allow additional time to guarantee adequate time to complete the project. The Department approved and extended the date by which the applicant must make full beneficial use of water under the terms and conditions of this transfer to October 1, 2021.

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

Certificate: 91901 in the name of WILD WATERS REVOCABLE LIVING TRUST
(perfected under Permit G-7160)
Use: IRRIGATION OF 17.1 ACRES
Priority Date: FEBRUARY 8, 1977
Rate: 0.21 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, 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 GOOSE AND SUMMER LAKES BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	19 E	WM	6	SE SE	1280 FEET NORTH AND 1260 FEET WEST FROM THE SE CORNER OF SECTION 6

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	19 E	WM	5	NW NW	2.5
40 S	19 E	WM	5	SW NW	6.9
40 S	19 E	WM	6	SE NE	7.7
Total					17.1

6. Transfer Application T-12595 proposes to change the place of use of the right as follows:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	19 E	WM	5	NW NW	4.6
40 S	19 E	WM	5	SW NW	5.8
40 S	19 E	WM	6	NE NE	6.3
40 S	19 E	WM	6	SE NE	0.4
Total					17.1

7. Transfer Application T-12595 proposes to change the point of appropriation for the above described new place of use northeast approximately 1550 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	19 E	WM	6	SE NE	2584.42 FEET SOUTH AND 525.17 FEET WEST FROM THE NE CORNER OF SECTION 6

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

Certificate: 91901 in the name of WILD WATERS REVOCABLE LIVING TRUST (perfected under Permit G-7160)
Use: IRRIGATION OF 86.2 ACRES
Priority Date: FEBRUARY 8, 1977
Rate: 1.08 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, shall be limited to 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 within the GOOSE AND SUMMER LAKES BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	19 E	WM	6	SE SE	1280 FEET NORTH AND 1260 FEET WEST FROM THE SE CORNER OF SECTION 6

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	19 E	WM	5	NW NW	25.9
40 S	19 E	WM	5	SW NW	16.9
40 S	19 E	WM	6	NE NE	12.4
40 S	19 E	WM	6	SE NE	31.0
Total					86.2

9. Transfer Application T-12595 proposes to change the point of appropriation for the above described 86.2 acres northeast approximately 1550 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	19 E	WM	6	SE NE	2584.42 FEET SOUTH AND 525.17 FEET WEST FROM THE NE CORNER OF SECTION 6

Transfer Review Criteria (OAR 690-380-4010)

10. Water has been used within the last five years prior to the submittal of Transfer Application T-12595 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.
11. 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-12595.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.

14. All other application requirements are met.

Determination and Proposed Action

The change in point of appropriation and change in place of use proposed in Transfer Application T-12595 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-12595 is approved, the final order will include the following:

1. *The change in point of appropriation and change in place of use proposed in Transfer Application T-12595 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 Certificate 91901 and any related decree.*
3. *Water right Certificate 91901 is cancelled. A new certificate will be issued describing the portion of the right not affected by this transfer.*
4. *The quantity of water diverted at the new 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 the new point of appropriation.*
 - b. *The water user shall maintain the meter or measuring devices in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter or measuring devices; provided however, where the meter 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 point 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, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this JUN 18 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>