

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12634, Washington County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE AND
)	PARTIAL CANCELLATION OF A
)	WATER RIGHT

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. ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

JOE VAN DYKE
BRENDA VAN DYKE
730 SW 331ST AVE
HILLSBORO, OR 97123

Findings of Fact

1. On April 6, 2017, JOE VAN DYKE OR BRENDA VAN DYKE filed an application to change the place of use under Certificates 34966, 54283, and 35191. The Department assigned the application number T-12634.
2. Notice of the application for transfer was published on April 11, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 5, 2018, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12634 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of May 7, 2018, for the applicants to respond. The applicants requested the completion date be extended to October 1, 2023 and for the Department proceed with issuance of a 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.
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4. The portion of the first right to be transferred is as follows:

Certificate: 34966 in the name of GERALD VAN DYKE (perfected under Permit S-23505)
Use: IRRIGATION of 4.6 ACRES
Priority Date: MARCH 7, 1955
Rate: 0.05 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: DAIRY CREEK, tributary to the TUALATIN RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC
1 S	3 W	WM	1	SW NW	50

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	2	NW SE	50	4.6

5. Transfer Application T-12634 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	2	SE NE	50	4.6

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

Certificate: 54283 in the name of GERALD VAN DYKE (perfected under Permit G-7031)
Use: IRRIGATION of 4.6 ACRES
Priority Date: NOVEMBER 5, 1976
Rate: 0.03 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL within the DAIRY CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1 S	3 W	WM	2	SE NE	50	2740 FEET NORTH AND 220 FEET WEST FROM THE SE CORNER OF SECTION 2

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	2	SE NE	50	4.6

7. Transfer Application T-12634 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	2	NW SE	50	4.6

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

Certificate: 35191 in the name of GERALD VAN DYKE (perfected under Permit S-31708)
Use: SUPPLEMENTAL IRRIGATION of 4.6 ACRES
Priority Date: MARCH 15, 1966
Limit/Duty: Portion of storage from reservoir constructed under Permit No. R-4809.
Source: RESERVOIR constructed under Application R-41992, Permit No. R-4809, a tributary of TUALATIN RIVER.

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1 S	3 W	WM	1	SW NW	50	3250 FEET NORTH AND 570 FEET EAST FROM THE SW CORNER OF SECTION 1

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	2	NW SE	50	4.6

9. Transfer Application T-12634 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	2	SE NE	50	4.6

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

10. 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 rights are subject to forfeiture under ORS 540.610.
11. 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-12634.
12. The proposed change would not result in enlargement of the rights.
13. The proposed change would not result in injury to other water rights.

14. All other application requirements are met.

Partial Cancellation of a Water Right

15. On April 6, 2017, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from H G LLC (Helen Van Dyke). The right to be cancelled is as follows:

Certificate: 54283 in the name of GERALD VAN DYKE (perfected under Permit G-7031)
Use: SUPPLEMENTAL IRRIGATION of 4.6 ACRES
Priority Date: NOVEMBER 5, 1976
Rate: 0.03 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL in the DAIRY CREEK BASIN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1 S	3 W	WM	2	SE NE	50	2740 FEET NORTH AND 220 FEET WEST FROM THE SE CORNER OF SECTION 2

Authorized Place of Use to be Cancelled:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	3 W	WM	2	NW SE	50	4.6

Determination and Proposed Action

The change in place of use proposed in Transfer Application T-12634 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the abandoned right should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved and the abandoned right will be cancelled.

If Transfer Application T-12634 is approved, the final order will include the following:

- 1. The change in place of use proposed in Transfer Application T-12634 is approved. The portion of the right that has been abandoned is cancelled.*
- 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 34966, 54283, and 3519 and any related decree.*
- 3. Water right Certificates 34966, 54283, and 3519 are cancelled. New certificates will be issued describing the portions of the rights not affected by this transfer and cancellation.*

