

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12510, Deschutes County)	PROPOSING APPROVAL OF A
)	CHANGE IN POINT OF
)	APPROPRIATION

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.

Applicants

ANTHONY WILKINS, JR
VANESSA WILKINS
69620 OLD BARN COURT
SISTERS, OR 97759

LEE AND MARY MORGAN
69615 OLD BARN COURT
SISTERS, OR 97759

Findings of Fact

1. On October 20, 2016, ANTHONY WILKINS, JR, VANESSA WILKINS, LEE MORGAN, AND MARY MORGAN filed an application to change the point of appropriation under Certificate 89686. The Department assigned the application number T-12510.
2. Notice of the application for transfer was published on October 25, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 11, 2017, the Department identified a discrepancy in the quarter-quarter location of the authorized point of appropriation in the application submitted.
4. On May 11, 2017, the agent for the applicants clarified the quarter-quarter location of the authorized point of appropriation.

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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5. On May 19, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-12510 the applicants. The draft Preliminary Determination cover letter set forth a deadline of June 19, 2017, for the applicants to respond.
6. On June 13, 2017, the applicant's agent submitted a revised application proposing a new well location.
7. On June 27, 2017, the Department contacted the applicant's agent requesting clarification of the change proposed in Transfer Application T-12510. The Agent clarified the discrepancy on the same day by submitting a revised Table 2 of the application.
8. On February 6, 2018 the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12510 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 6, 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.
9. The portion of the right to be transferred is as follows:

Certificate: 89686 in the name of RICK AND LINNEA KUHNHAUSEN, WILLIAM CARL AND TERESA JO HERZOG, AND RICHARD C. AND APRIL K. JOHNSON (perfected under Permit G-12942)

Use: IRRIGATION of 20.32 ACRES

Priority Date: FEBRUARY 14, 1995

Rate: 0.257 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31 OF EACH YEAR

Source: ONE WELL within the WHYCHUS CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	10 E	WM	28	SW SE	230 FEET NORTH AND 1373 WEST FROM THE SE CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	10 E	WM	28	NE SE	0.15
14 S	10 E	WM	28	SE SE	20.17
TOTAL					20.32

10. Transfer Application T-12510 proposes to move the authorized point of appropriation approximately 643 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	10 E	WM	28	SW SE	POA 2 - 530 FEET NORTH AND 730 FEET WEST FROM THE SE CORNER OF SECTION 28

Transfer Review Criteria (OAR 690-380-4010)

11. 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.
12. The proposed well shall allow groundwater production only from the alluvial/glacial outwash aquifer.
13. 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-12510.
14. The proposed change would not result in enlargement of the right.
15. The proposed change would not result in injury to other water rights.
16. All other application requirements are met.

Determination and Proposed Action

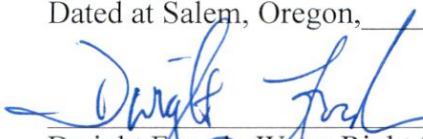
The change in point of appropriation proposed in Transfer Application T-12510 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12510 is approved, the final order will include the following:

1. *The change in point of appropriation proposed in Transfer Application T-12510 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 89686 and any related decree.*
3. *Water right Certificate 89686 is cancelled. A new certificate will be issued describing that 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. *The proposed well shall allow groundwater production only from the alluvial/glacial outwash aquifer.*

6. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
7. *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 new point of 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 are located within a private structure, the Watermaster shall request access upon reasonable notice.*
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 change 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, JUN 18 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 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>