

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

In the Matter of Transfer Application	)	REVISED PRELIMINARY
T-12697, Clackamas County	)	DETERMINATION PROPOSING
	)	APPROVAL OF A CHANGE IN
	)	POINTS 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.

Applicant

ORIENT HOLDINGS LLC
PO BOX 233
EAGLE CREEK, OR 97022

Findings of Fact

1. On June 16, 2017, ORIENT HOLDINGS, LLC filed an application to change the points of appropriation under Certificate 87553. The Department assigned the application number T-12697.
2. Notice of the application for transfer was published on June 27, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 18, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12697 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 19, 2018 for the applicant to respond. The applicant requested that the Department extend the completion date to October 1, 2021, and to proceed with issuance of a Preliminary Determination.
4. On February 20, 2018, the Department contacted the applicant, Genny Kiley for Orient Holdings LLC, requesting documentation demonstrating that Genny Kiley is authorized to pursue the transfer. The Department received on the same day, documentation demonstrating that the Applicant is 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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5. On April 24, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12697 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on April 24, 2018, and in the Estacada News newspaper on June 27, 2018 and July 4, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. On August 20, 2018, the Department determined a revised Preliminary Determination for Transfer T-12697 would need to be issued, due to a scrivener's error involving the conditions in the Preliminary Determination that was issued on April 24, 2018.
7. The right to be transferred is as follows:

Certificate: 87553 in the name of DAN L. NELSON
(perfected under Permit G-11795)

Use: AGRICULTURE USE AND IRRIGATION OF 9.0 ACRES

Priority Date: AUGUST 18, 1993

Rate: 0.11 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for agricultural use is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of containerized nursery plants, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of in ground nursery plants the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre each year. The use of water for agricultural use may be made at any time of the year that the use is beneficial. For the irrigation, of any other crop, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.

Source: A WELL, in the JOHNSON CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	4 E	WM	29	NE SW	520 FEET SOUTH AND 73 FEET WEST FROM THE C1/4 CORNER OF SECTION 29

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	4 E	WM	29	SE SW	9.0

AGRICULTURE USE				
Twp	Rng	Mer	Sec	Q-Q
1 S	4 E	WM	29	SE SW

8. Transfer Application T-12697 proposes to move the authorized point of appropriation with approximate distances from the original well located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from original well location measured in feet (ft)
1 S	4 E	WM	29	SE SW	WELL 1 - 960 FEET NORTH AND 2220 FEET EAST FROM THE SW CORNER OF SECTION 29	1100
1 S	4 E	WM	29	SE SW	WELL 2 - 920 FEET NORTH AND 2620 FEET EAST FROM THE SW CORNER OF SECTION 29	1100
1 S	4 E	WM	29	SE SW	WELL 3 - 970 FEET NORTH AND 1360 FEET EAST FROM THE SW CORNER OF SECTION 29	1650

Transfer Review Criteria (OAR 690-380-4010)

9. Confirming water right certificate 87553 was issued within five years of submission of transfer Application T-12697. There is no information in the record that would demonstrate that the right is 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 right were present within the five-year period prior to submission of Transfer Application T-12697.
11. The proposed points of appropriation (wells) shall be constructed to produce from the alluvial aquifer encountered from 200-400 feet below land surface, including continuous casing and seal to a depth of no less than 200 feet; unless otherwise authorized by the Department's Groundwater Section.
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 proposed in Transfer Application T-12697 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-12697 is approved, the final order will include the following:

1. *The change in point of appropriation proposed in Transfer Application T-12697 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 87553 and any related decree.*

3. *Water right Certificate 87553 is cancelled.*
4. *The quantity of water diverted at the new points of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
5. *The proposed points of appropriation (wells) shall be constructed to produce from the alluvial aquifer encountered from 200-400 feet below land surface, including continuous casing and seal to a depth of no less than 200 feet; unless otherwise authorized by the Department's Groundwater Section.*
6. *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.*
 - 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.*
7. *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.*
8. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon, AUG 30 2018.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

This revised Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or corey.a.courchane@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>



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

August 30, 2018

ORIENT HOLDINGS LLC
PO BOX 233
EAGLE CREEK, OR 97022

SUBJECT: Water Right Transfer Application T-12697

Please find enclosed the revised Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12697. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being re-published in the Department's weekly publication with issuance of the revised Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the Department's notice.

If no protest is filed, the Department will issue a Final Order consistent with the revised Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the revised Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me, at corey.a.courchane@oregon.gov or (503) 986-0825, if I may be of assistance.

Sincerely,

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application File T-12697
Amy J. Kim, District 20 Watermaster (via e-mail)

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