

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12953, Wasco 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

FRANCIS ROY AND CORALEE GROCE
80242 CLAYMIER LANE
MAUPIN OR 97037

Agent

TENNESON ENGINEERING
LARRY TOLL
3775 CRATES WAY
THE DALLES OR 97058

Findings of Fact

1. On June 18, 2018, Francis Roy and Coralee Groce filed an application to change the place of use under Certificates 77326 and 77733. The Department assigned the application number T-12953.
2. Notice of the application for transfer was published on June 21, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 6, 2018, the agent for the applicants revised the application and map to better describe the place of use and proposed "TO" lands.
4. The Department has determined that the water rights subject to transfer are layered with water right permit S-54068 for primary irrigation in the name of Juniper Flat District Improvement Company. The applicant has stated that they do not intend to prove up the portion of Permit S-54068 on either of these associated "FROM" and "TO" lands described below in Finding of Fact No. 5 and No. 6.

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 September 6, 2018, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12953 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of October 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 applicants are authorized to pursue the transfer (or amended the application or did not respond by the deadline).

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

Certificate: 77326 in the name of JUNIPER FLAT DISTRICT IMPROVEMENT CO.
(confirmed by White River Decree of the Circuit Court of the State of Oregon for Wasco County)

Use: IRRIGATION OF 34.98 ACRES AND STOCK

Priority Date: JULY 1, 1903 FOR DIRECT FLOW FROM CLEAR CREEK AND FROG CREEK, AND AUGUST 19, 1904, FOR STORAGE IN CLEAR LAKE RESERVOIR

Limit/Duty: ONE ACRE FOOT PER ACRE OR ACRE EQUIVALENT DURING ANY 30-DAY PERIOD UP TO JULY 1st OF EACH YEAR AND NOT TO EXCEED 3.0 ACRE FEET PER ACRE OR ACRE EQUIVALENT DURING ANY IRRIGATION SEASON; PROVIDED, THAT THE RATE OF FLOW SHALL NOT EXCEED 1/40th OF A SECOND FOOT PER ACRE OR ACRE EQUIVALENT UP TO JULY 1st OF EACH YEAR AND THEREAFTER NOT TO EXCEED 1/80th OF A SECOND FOOT PER ACRE OR ACRE EQUIVALENT, EXCEPT IN CASE OF ROTATION.

Source: DIRECT FLOW FROM CLEAR CREEK AND FROG CREEK AND STORAGE IN CLEAR LAKE RESERVOIR, a tributary of WHITE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Source
4 S	9 E	WM	34	NE NE	FROG CREEK
5 S	9 E	WM	10	NW SE	CLEAR CREEK
4 S	9 E	WM	32	SE SE	CLEAR LAKE RESERVOIR DAM

Authorized place of use:

PRIMARY IRRIGATION AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	12 E	WM	14	SW SE	0.60
5 S	12 E	WM	14	SE SE	2.40
5 S	12 E	WM	23	NW NE	6.90
5 S	12 E	WM	23	NE NW	9.00
5 S	12 E	WM	23	NW NW	12.68
5 S	12 E	WM	23	SW NW	3.40
Total					34.98

7. Transfer Application T-12953 proposes to change the place of use to:

PRIMARY IRRIGATION AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	12 E	WM	14	NE NW	0.80
5 S	12 E	WM	14	NW SW	23.68
5 S	12 E	WM	14	SW SW	7.20
5 S	12 E	WM	14	SE SW	0.30
5 S	12 E	WM	14	NW SE	0.30
5 S	12 E	WM	14	SW SE	2.70
Total					34.98

8. The portion of the supplemental irrigation water right to be transferred is as follows:

Certificate: 77733 in the name of JUNIPER FLAT DISTRICT IMPROVEMENT CO.
(perfected under Permit S-25275)

Use: SUPPLEMENTAL IRRIGATION OF 34.98 ACRES

Priority Date: NOVEMBER 11, 1915

Quantity: 146.92 ACRE FEET

Duty: LIMITED TO A DIVERSION OF 4.2 ACRE FEET FOR EACH ACRE IRRIGATED OR ACRE EQUIVALENT DURING THE IRRIGATION SEASON OF EACH YEAR

Source: CLEAR LAKE RESERVOIR (CONSTRUCTED UNDER PERMIT R-2106), a tributary of the WHITE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	9 E	WM	32	SE SE	1390 FEET SOUTH AND 480 FEET WEST FROM THE E $\frac{1}{4}$ CORNER OF SECTION 32

Authorized place of use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	12 E	WM	14	SW SE	0.60
5 S	12 E	WM	14	SE SE	2.40
5 S	12 E	WM	23	NW NE	6.90
5 S	12 E	WM	23	NE NW	9.00
5 S	12 E	WM	23	NW NW	12.68
5 S	12 E	WM	23	SW NW	3.40
Total					34.98

9. Transfer Application T-12953 proposes to change the place of use of the above described water rights to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	12 E	WM	14	NE NW	0.80
5 S	12 E	WM	14	NW SW	23.68
5 S	12 E	WM	14	SW SW	7.20
5 S	12 E	WM	14	SE SW	0.30
5 S	12 E	WM	14	NW SE	0.30
5 S	12 E	WM	14	SW SE	2.70
Total					34.98

10. The lands proposed for transfer are located within the Juniper Flat District Improvement Company. Timothy Morelli, Chairman of the Board of Directors for the company, submitted a completed consent form concurring with the proposed water right transfer application.

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

11. Water has been used within the five-year period prior to submittal of the transfer application according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
12. Diversion structures, ditch and district delivery system sufficient to use the full amounts of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-12953.
13. The proposed change would not result in enlargement of the rights.
14. The proposed change would not result in injury to other water rights.
15. All other application requirements are met.

Determination and Proposed Action

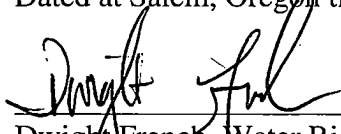
The change in place of use proposed in Transfer Application T-12953 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-12953 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-12953 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 Certificates 77326 and 77733 and any related decree.*

3. *Water right Certificates 77326 and 77733 are modified. The Department will issue superseding certificates describing the rights when it is determined that it is necessary for record keeping.*
4. *The former place of use of the transferred rights shall no longer receive water under the rights.*
5. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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.*

Dated at Salem, Oregon this NOV 28 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>



Oregon
Kate Brown, Governor

Water Resources Department
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Salem, OR 97301
(503) 986-0900
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November 26, 2018

FRANCIS ROY AND CORALEE GROCE
80242 CLAYMIER LANE
MAUPIN OR 97037

SUBJECT: Water Right Transfer Application T-12953

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12953. 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 published in the Department's weekly publication, simultaneously with issuance of the 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 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 Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0886 or Patrick.K.Starnes@oregon.gov if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Program Analyst
Transfer and Conservation Section

cc: Transfer Application file T-12953
Robert L. Wood, District 3 Watermaster *(via e-mail)*
Larry Toll, Tenneson Engineering Corporation, Agent/CWRE for the applicant *(via e-mail)*
Juniper Flat District Improvement Company, 82529 Highway 216, Maupin, OR 97037

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