

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12984, Wallowa 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**

SATURNO LAND CO. OREGON LLC  
62582 BOWERMAN RD  
JOSEPH, OR 97846  
tdwags42@gmail.com

**Findings of Fact**

1. On July 23, 2018, SATURNO LAND CO. OREGON LLC filed an application to change the place of use under Certificate 3117. The Department assigned the application number T-12984.
2. Notice of the application for transfer was published on July 31, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 14, 2018, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12984 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of October 15, 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.

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.

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

**Certificate:** 3117 in the name of MOONSHINE DITCH CO. (confirmed by Wallowa River Decree)  
**Use:** IRRIGATION of 7.5 ACRES, DOMESTIC AND STOCK USE  
**Priority Date:** NOVEMBER 30, 1901  
**Limit/Duty:** The amount of water to which such right is entitled and hereby confirmed for the purposes aforesaid, is limited to amount actually beneficially used for said purposes and shall not exceed 1.5 acre feet per acre during any period of 30 days prior to July 31<sup>st</sup> of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season.  
**Source:** HURRICANE CREEK, tributary to the WALLOWA RIVER

**Authorized Place of Use:**

IRRIGATION, DOMESTIC, AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	44 E	WM	35	SE SE	3.2
2 S	44 E	WM	36	SW SW	4.3
Total					7.5

5. Certificate 3117 does not describe the location of the point of diversion, however information is available from the Wallowa River Decree and the local watermaster indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Ditch Name
3 S	44 E	WM	3	NE NE	Moonshine Ditch

6. Transfer Application T-12984 proposes to change the place of use of the right to:

IRRIGATION, DOMESTIC, AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	44 E	WM	35	NE SE	4.0
2 S	44 E	WM	35	SE SE	3.5
Total					7.5

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

7. 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.
8. A diversion structure and ditch 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-12984.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

## **Determination and Proposed Action**

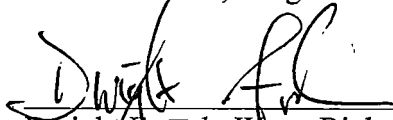
The change in place of use proposed in Transfer Application T-12984 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-12984 is approved, the final order will include the following:*

- 1. The change in place of use proposed in Transfer Application T-12984 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 3117 and any related decree.*
- 3. Water right Certificate 3117 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 4. Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.*
- 5. The former place of use of the transferred right shall no longer receive water under the right.*
- 6. 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.*

7. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this Dec. 27th, 2018,

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

This Preliminary Determination was prepared by Marcy Osborn. If you have questions about the information in this document, you may reach me at 541-523-8224 ext.228 or [marcy.j.osborn@oregon.gov](mailto:marcy.j.osborn@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

December 20, 2018

**VIA E-MAIL**

SATURNO LAND CO. OREGON LLC  
62582 BOWERMAN RD  
JOSEPH, OR 97846  
tdwags42@gmail.com

SUBJECT: Water Right Transfer Application T-12984

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12984. 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](mailto: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-12984  
David D. Bates, District 7 Watermaster (*via e-mail*)  
Douglas Saturno, Agent for the applicant (*via e-mail*)

encs