



Oregon
Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

August 16, 2019

TIM BLAKE
8330 SW RIVER RD
HILLSBORO, OR 97123

SUBJECT: Water Right Transfer Application T-12486

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12486. 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 and in the Hillsboro Tribune newspaper, 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 last date of newspaper publication.

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 503-986-0806 or arla.l.davis@oregon.gov if I may be of assistance.

Sincerely,

Arla L Davis
Transfer Specialist
Transfer and Conservation Section

cc: T-12486
Jacob W. Constans, District 18 Watermaster (*via e-mail*)
Michele W. Sims, Agent for the applicant (*via e-mail*)

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12486, Washington County)	PROPOSING APPROVAL OF A
)	CHANGE IN CHARACTER OF USE

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

TIM BLAKE
8330 SW RIVER RD
HILLSBORO, OR 97123

Findings of Fact

1. On September 21, 2016, TIM BLAKE filed an application to change the character of use under Certificate 44786. The Department assigned the application number T-12486.
2. Notice of the application for transfer was published on October 4, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 29, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12486 to the applicant and emailed a copy to the agent. The draft Preliminary Determination cover letter set forth a deadline of June 28, 2019, for the applicant to respond.
4. On June 11, 2019, the agent for the applicant responded by email accepting the conditions in the Draft Preliminary Determination and requested the Hillsboro Tribune as the newspaper to be used for publication of the public notice.

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

Certificate: 44786 in the name of CHARLES L. OR KATHERINE L. STARR
(perfected under Permit G-5024)
Use: IRRIGATION of 1.1 ACRES
Priority Date: MAY 29, 1970
Rate: 0.01 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 and shall conform to such reasonable rotation system as may be ordered by the proper state officer.
Source: ONE WELL, a tributary of TUALATIN RIVER

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1 S	2 W	WM	28	NW NE	54	1060 FEET SOUTH AND 2000 FEET WEST FROM THE NE CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
1 S	2 W	WM	28	NW NE	54	1.1

6. Transfer Application T-12486 proposes to change the character of use of the right to nursery.
7. Certificate 44786 does not specify the irrigation season, however the Tualatin River Decree establishes the irrigation season for the area as May 1 through September 30. The change in character of use to nursery is limited to May 1 through September 30.
8. The proposed nursery use shall be limited to a rate of not to exceed 0.01 cfs and shall be further limited to a total volume diverted of 2.75 acre-feet (AF) per season, being 2.5 AF per acre per season.

Transfer Review Criteria (OAR 690-380-4010)

9. Water has been used within the last five years prior to the submittal of Transfer Application T-12486 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.
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 submittal of Transfer Application T-12486.
11. The proposed change, as conditioned, would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Determination and Proposed Action

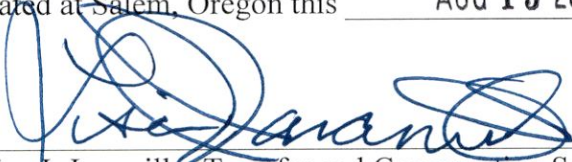
The change in character of use proposed in Transfer Application T-12486 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12486 is approved, the final order will include the following:

1. *The change in character of use proposed in Transfer Application T-12486 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 44786 and any related decree.*
3. *Water right Certificate 44786 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *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 (new and existing).*
 - 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.*
5. *The rate of diversion for the proposed nursery use shall be limited to 0.01 cubic foot per second (cfs) and shall be further limited to a total quantity diverted of 2.75 (AF) during the original season of use, being May 1 through September 30.*
6. *The proposed nursery operations shall be further limited such that:*
 - a. *The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.008 cfs per acre and 2.5 AF per acre per season.*
 - b. *For irrigation of containerized nursery plants, the amount of water diverted is limited to 0.008 cfs per acre and 2.5 AF per acre per season.*
 - c. *For irrigation of in-ground nursery plants, the amount of water diverted is limited to 0.008 cfs per acre and 2.5 AF per acre per season.*
 - d. *For irrigation of any other crop, the amount of water diverted is limited to 0.008 cfs per acre and 2.5 AF per acre per season. The place of use of water for irrigation of any other crop shall be limited to 1.1 acres.*
7. *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.*

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

Dated at Salem, Oregon this AUG 15 2019 ,



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Thomas M. Byler, Director
Oregon Water Resources Department

This Preliminary Determination was prepared by Arla Davis. If you have any questions about the information in this document, you may reach me at 503-986-0806 or arla.l.davis@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>