



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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September 12, 2019

Applicant

BLANCO BOGS (ALEX ELLS)
PO BOX 41
PORT ORFORD, OR 97465

SUBJECT: Water Right Transfer Application T-12924

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12924. 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 scott.a.grew@oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-12924
Gregory J. Wacker, District 19 Watermaster (*via e-mail*)
Clay Jordan, CWRE (*via mail*)

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12924, Curry County)	PROPOSING APPROVAL OF AN
)	ADDITIONAL 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.

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Findings of Fact

1. On May 16, 2018, BLANCO BOGS (ALEX ELLS) filed an application for an additional point of appropriation under Certificate 90058. The Department assigned the application number T-12924.
2. Notice of the application for transfer was published on May 22, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 31, 2019, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12924 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 1, 2019, for the applicant to respond. The applicant 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.

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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4. The right to be transferred is as follows:

Certificate: 90058 in the name of BLANCO BOGS (perfected under Permit G-12993)
Use: IRRIGATION AND AGRICULTURAL USES ON 37.1 ACRES FOR CRANBERRY OPERATIONS AND SUPPLEMENTAL IRRIGATION AND AGRICULTURAL USE ON 33.0 ACRES FOR CRANBERRY OPERATIONS.

Priority Date: SEPTEMBER 18, 1991

Rate: 0.61 CUBIC FOOT PER SECOND (CFS), BEING 0.41 CFS FROM THE WELL AND 0.20 FROM THE SUMP

Limit/Duty: The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year. 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.

Period of Use: The period of allowed use for water from the well is year round for agricultural use and March 1 through October 31 for irrigation. The period of allowed use for water from the sump is November 1 through April 30 and during the month of July for agricultural use and March 1 through April 30 and during the month of July for irrigation.

Source: ONE WELL and ONE SUMP in SIXES RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
31 S	15 W	WM	32	NE SW	WELL - 2560 FEET NORTH AND 2430 FEET EAST FROM THE SW CORNER OF SECTION 32
31 S	15 W	WM	32	NE SW	SUMP - 1600 FEET NORTH AND 2015 FEET EAST FROM THE SW CORNER OF SECTION 32

Authorized Place of Use:

CRANBERRY OPERATIONS					
Twp	Rng	Mer	Sec	Q-Q	Acres
31 S	15 W	WM	32	NE SW	16.4
31 S	15 W	WM	32	NW SW	0.6
31 S	15 W	WM	32	SW SW	2.2
31 S	15 W	WM	32	NW SE	1.7
31 S	15 W	WM	32	SW SE	16.2
Total					37.1

SUPPLEMENTAL CRANBERRY OPERATIONS						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
31 S	15 W	WM	32	NW SW		14.3
31 S	15 W	WM	32	SW SW		4.4
31 S	15 W	WM	32	NW SE		5.0
32 S	15 W	WM	5	NW NW	4	9.3
Total						33.0

5. Transfer Application T-12924 proposes to add the authorized point of appropriation, with approximate distances from the existing point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distances (miles)	
31 S	15 W	WM	32	NE SW	WELL 2 - 1735 FEET NORTH AND 2570 FEET EAST FROM SW CORNER, SECTION 32	WELL 1	SUMP
						0.13	0.11

Transfer Review Criteria (OAR 690-380-4010)

- Water has been used within the last five years prior to the submittal of Transfer Application T-12924 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.
- 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-12924.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.
- All other application requirements are met.

Determination and Proposed Action

The additional point of appropriation proposed in Transfer Application T-12924 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-12924 is approved, the final order will include the following:

- The additional point of appropriation proposed in Transfer Application T-12924 is approved.*
- 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 90058 and any related decree.*
- Water right Certificate 90058 is cancelled.*
- The quantity of water diverted at the additional point of appropriation (Well 2), together with that diverted at the original points of appropriation (Well 1 and Sump), shall not*

exceed the quantity of water lawfully available at the original points of appropriation (Well 1 and Sump).

5. *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.*

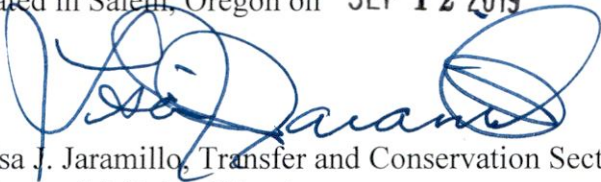
c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*

6. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*

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 in Salem, Oregon on **SEP 12 2019**



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

This draft Preliminary Determination was prepared by Scott Grew. If you have questions about the information in this document, you may reach him at 503-986-0890 or scott.a.grew@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 servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free number.