

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12932, Clackamas, Marion County	)	PROPOSING APPROVAL OF AN
	)	ADDITIONAL POINT OF DIVERSION
	)	AND 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**

DICKMAN FARMS  
c/o MARK DICKMAN  
15829 MT. ANGEL SCOTTS MILLS NE  
SILVERTON, OR 97381

**Findings of Fact**

1. On May 25, 2018, DICKMAN FARMS, c/o MARK DICKMAN filed an application for an additional point of diversion and a change in place of use under Certificates 35420 and 54671. The Department assigned the application number T-12932.
2. Notice of the application for transfer was published on June 5, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 16, 2019, the agent for the applicant submitted a Land Use form which was missing from the original application.
4. On June 21, 2019, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12932 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 24, 2019, for the applicant to respond. The applicant requested the completion date be extended to October 1, 2025 and for the Department to 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.

5. The first right to be transferred is as follows:

**Certificate:** 35420 in the name of GEORGE E. BOND (perfected under Permit S-30318)  
**Use:** IRRIGATION of 43.4 ACRES  
**Priority Date:** MARCH 29, 1965  
**Rate:** 0.48 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.  
**Source:** BUTTE CREEK, a tributary of PUDDING RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	31	SE NW	#1 - 2480 FEET SOUTH AND 810 FEET WEST FROM THE NORTH 1/4 CORNER OF SECTION 31

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	31	NE NW	25.4
5 S	1 E	WM	31	SE NW	18.0
Total					43.4

6. Transfer Application T-12932 proposes an additional point of diversion approximately 1500 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	31	SW NW	#2 - 1625 FEET SOUTH AND 1880 FEET WEST FROM THE NORTH 1/4 CORNER OF SECTION 31

7. Transfer Application T-12932 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	31	NE NW	32.9
5 S	1 E	WM	31	SE NW	10.5
Total					43.4

8. The second right to be transferred is as follows:

**Certificate:** 54671 in the name of HAROLD KRAEMER (perfected under Permit S-45031)  
**Use:** IRRIGATION of 21.7 ACRES  
**Priority Date:** MAY 13, 1980  
**Rate:** 0.27 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.

**Source:** BUTTE CREEK, a tributary of PUDDING RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	31	NE SW	#1 - 2850 FEET SOUTH AND 120 FEET WEST FROM THE NORTH 1/4 CORNER OF SECTION 31

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	31	NE NW	8.7
5 S	1 E	WM	31	SE NW	12.1
5 S	1 E	WM	31	NE SW	0.9
Total					21.7

9. Transfer Application T-12932 proposes an additional point of diversion approximately 2375 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	31	SW NW	#2 - 1625 FEET SOUTH AND 1880 FEET WEST FROM THE NORTH 1/4 CORNER OF SECTION 31

10. Transfer Application T-12932 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	31	NE NW	0.4
5 S	1 E	WM	31	SE NW	20.7
5 S	1 E	WM	31	NE SW	0.6
Total					21.7

11. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

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

12. Water has been used within the last five years 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.

13. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-12932.
14. The proposed changes would not result in enlargement of the rights.
15. The proposed changes would not result in injury to other water rights.
16. All other application requirements are met.

### **Determination and Proposed Action**

The additional point of diversion and change in place of use proposed in Transfer Application T-12932 appear 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.

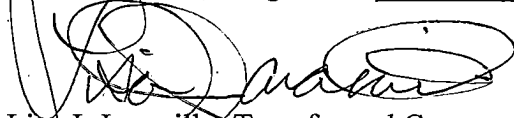
*If Transfer Application T-12932 is approved, the final order will include the following:*

1. *The additional point of diversion and changes in place of use proposed in Transfer Application T-12932 are 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 35420 and 54671 and any related decree.*
3. *Water right Certificates 35420 and 54671 are cancelled.*
4. *The quantity of water diverted at the additional point of diversion (#2), together with that diverted at the original point of diversion (#1), shall not exceed the quantity of water lawfully available at the original points of diversion (#1), under Certificate 35420.*
5. *The quantity of water diverted at the additional point of diversion (#2), together with that diverted at the original point of diversion (#1), shall not exceed the quantity of water lawfully available at the original points of diversion (#1), under Certificate 54671.*
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 diversion (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 device(s); provided however, where the meters or measuring devices are located*

*within a private structure, the Watermaster shall request access upon reasonable notice.*

7. *Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.  
  
The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.*
8. *The former place of use of the transferred rights shall no longer receive water under the rights.*
9. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2025**. 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 changes and full beneficial use of the water.*
10. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this     **OCT 17 2019**    ,



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M BYLER, DIRECTOR  
Oregon Water Resources Department

This Preliminary Determination was prepared by Marcy Osborn. Transfer Application T-12932 is now assigned to 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](mailto: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

October 17, 2019

DICKMAN FARMS  
ATTN: MARK DICKMAN  
15829 MT. ANGEL SCOTTS MILLS NE  
SILVERTON, OR 97381

SUBJECT: Water Right Transfer Application T-12932

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12932. 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 Woodburn Independent 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 [corey.a.courchane@oregon.gov](mailto: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: T-12932  
Joel M. Plahn, District 16 Watermaster (*via e-mail*)  
Malia R. Kupillas, Agent for the applicant (*via e-mail*)

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