

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12997, Harney County)	PROPOSING APPROVAL FOR
)	ADDITIONAL POINTS OF
)	APPROPRIATION AND A CHANGE IN
)	PLACE 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

GORDON AND KAY BLOOMQUIST
REX BLACKBURN
PO BOX 1458
HINES, OR 97738

Findings of Fact

1. On July 27, 2018, GORDON AND KAY BLOOMQUIST AND REX BLACKBURN filed an application for an additional point of appropriation and to change the place of use under Certificate 81927, and for an additional point of appropriation under Certificate 91975. The Department assigned the application number T-12997.
2. Notice of the application for transfer was published on August 7, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 29, 2019, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12997 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of July 1, 2019, for the applicants to respond. The applicants requested the completion date be extended to October 1, 2024 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.

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

Certificate: 81927 in the name of WALTER T. MCEWEN (perfected under Permit G-4374)
Use: SUPPLEMENTAL IRRIGATION of 92.4 ACRES
Priority Date: OCTOBER 16, 1968
Rate: 1.15 CUBIC FEET 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL in the DONNER UND BLITZEN RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
26 S	31 E	WM	34	SW NE	6	1630 FEET NORTH AND 2750 FEET WEST FROM THE SE CORNER OF LOT 1 (NWSW) OF SECTION 35

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Type of Change
26 S	31 E	WM	27	NE SE	1	2.3	APOA ONLY
26 S	31 E	WM	27	NE SE		2.4	APOA ONLY
26 S	31 E	WM	27	NW SE		9.1	APOA ONLY
26 S	31 E	WM	27	SW SE	2	1.2	APOA ONLY
26 S	31 E	WM	27	SW SE		7.3	APOA ONLY
26 S	31 E	WM	27	SE SE		3.0	APOA ONLY
26 S	31 E	WM	34	SW NE	6	35.4	POU / APOA
26 S	31 E	WM	34	SE NE	5	31.7	POU / APOA
Total						92.4	

5. Certificate 81927 is a remaining right certificate from T-10109 and describes the point of appropriation as above in Finding of Fact #3. Since issuing this certificate the Department has received additional information from the final proof survey of T-10109 and the CWRE's survey from this transfer indicating the point of appropriation should be described as:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
26 S	31 E	WM	34	SW NE	6	WELL 1 - 1630 FEET NORTH AND 2780 FEET WEST FROM THE SE CORNER OF LOT 1 (NWSW) OF SECTION 35

6. Transfer Application T-12997 proposes an additional point of appropriation approximately 1100 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
26 S	31 E	WM	34	SE NE	5	WELL 2 - 2570 FEET NORTH AND 2550 FEET WEST FROM THE SE CORNER OF LOT 1 (NWSW) OF SECTION 35

7. Transfer Application T-12997 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Type of Change
26 S	31 E	WM	27	NE SE	1	2.3	APOA ONLY
26 S	31 E	WM	27	NE SE		2.4	APOA ONLY
26 S	31 E	WM	27	NW SE		9.1	APOA ONLY
26 S	31 E	WM	27	SW SE	2	1.2	APOA ONLY
26 S	31 E	WM	27	SW SE		7.3	APOA ONLY
26 S	31 E	WM	27	SW SE	2	2.3	POU / APOA
26 S	31 E	WM	27	SE SE		25.0	POU / APOA
26 S	31 E	WM	27	SE SE		3.0	APOA ONLY
26 S	31 E	WM	34	NE NE		36.5	POU / APOA
26 S	31 E	WM	34	NW NE		3.3	POU / APOA
Total						92.4	

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

Certificate: 91975 in the name of JETT C. BLACKBURN AND SOD HOUSE FARMS
(perfected under Permit G-4374)

Use: IRRIGATION of 60.7 ACRES

Priority Date: OCTOBER 16, 1968

Rate: 0.76 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL in the DONNER UND BLITZEN RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
26 S	31 E	WM	34	SW NE	6	WELL 1 - 1630 FEET NORTH AND 2780 FEET WEST FROM THE SE CORNER OF LOT 1 (NWSW) OF SECTION 35

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	31 E	WM	27	SW SE	2	24.2
26 S	31 E	WM	34	NW NE		36.5
Total						60.7

9. Transfer Application T-12997 proposes an additional point of appropriation approximately 1100 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
26 S	31 E	WM	34	SE NE	5	WELL 2 - 2570 FEET NORTH AND 2550 FEET WEST FROM THE SE CORNER OF LOT 1 (NWSW) OF SECTION 35

Transfer Review Criteria (OAR 690-380-4010)

10. 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.
11. 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-12997.
12. The proposed changes would not result in enlargement of the rights.
13. The proposed changes would not result in injury to other water rights.
14. All other application requirements are met.

Determination and Proposed Action

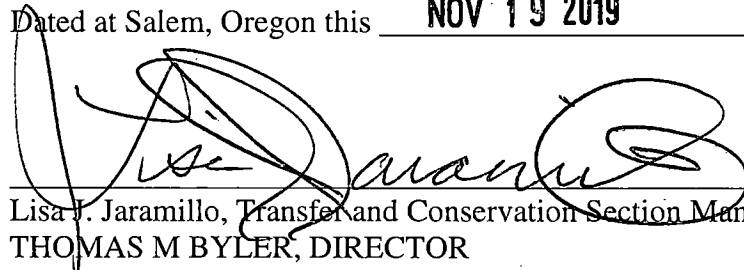
The additional point of appropriation and change in place of use proposed in Transfer Application T-12997 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12997 is approved, the final order will include the following:

1. *The additional point of appropriation and change in place of use proposed in Transfer Application T-12997 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 81927 and 91975 and any related decree.*
3. *Water right Certificates 81927 and 91975 are cancelled.*
4. *The quantity of water diverted at the additional point of appropriation (Well 2), together with that diverted at the original point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 1).*
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. *The former place of use of Certificate 81927 shall no longer receive water under the right.*
8. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2024**. 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.*
9. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this NOV 19 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. This transfer 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

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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(503) 986-0900

Fax (503) 986-0904

November 19, 2019

GORDON AND KAY BLOOMQUIST
REX BLACKBURN
PO BOX 1458
HINES, OR 97738

SUBJECT: Water Right Transfer Application T-12997

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12997. 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 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-12997
J.R. Johnson, District 10 Watermaster (via e-mail)
John A. Short, Agent for the applicant (via e-mail)

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