

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12882, Deschutes County	)	PROPOSING APPROVAL OF 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**

SONDRA WILSON  
70090 HOLMES RD.  
SISTERS, OR 97759

**Agent**

MICHELE WRIGHT SIMS CONSULTANT, LLC  
14865 CHECKREIN  
SISTERS, OR 97759

**Findings of Fact**

1. On March 29, 2018, Sondra Wilson filed an application to change the place of use under Certificate 74137. The Department assigned the application number T-12882.
2. Notice of the application for transfer was published on April 3, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The Department determined that there are other water rights appurtenant to the authorized lands proposed in the transfer. On November 27, 2018, the Department notified the agent for the applicant that there exists multiple, stacked primary irrigation rights on the "From" lands and requested resolution of this layered conflict.
4. Water right Permit G-13535 and Certificate 74137 were both issued for primary irrigation. Pursuant to OAR 690-380-5120, the agent stated the landowner will address the layered portion by not proving up on the approximate 7.8 acres portion at time of proof for the groundwater permit G-13535 and allow it to be cancelled at that time. Thus, the Department shall consider the conflict remedied and proceed with the transfer as proposed.

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. On December 21, 2018, the Department issued a draft Preliminary Determination proposing to approve Transfer Application T-12882. The draft Preliminary Determination cover letter set forth a deadline of January 20, 2019, for the applicant to respond. On March 19, 2019, the agent for the applicant agreed to the terms and conditions of the draft Preliminary Determination, requested the Department proceed with issuance of the Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

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

**Certificate:** 74137 in the name of DONALD D. WILLIAMS (perfected under Permit G-7809)

**Use:** IRRIGATION OF 68.6 ACRES

**Priority Date:** SEPTEMBER 7, 1977

**Rate:** 0.86 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, 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 within the DESCHUTES RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
14 S	12 E	WM	6	SW SE	230 FEET NORTH AND 1870 FEET WEST FROM THE SE CORNER OF SECTION 6

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
14 S	12 E	WM	6	SW NE	11.2
14 S	12 E	WM	6	SE NE	3.0
14 S	12 E	WM	6	NE SE	24.2
14 S	12 E	WM	6	NW SE	24.0
14 S	12 E	WM	6	SW SE	3.0
14 S	12 E	WM	6	SE SE	3.2
TOTAL:					68.6

7. Transfer Application T-12882 proposes to change the place of use to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
14 S	12 E	WM	6	SW NE	9.5
14 S	12 E	WM	6	SE NE	3.6
14 S	12 E	WM	6	NE SE	23.3
14 S	12 E	WM	6	NW SE	24.0
14 S	12 E	WM	6	SW SE	4.3
14 S	12 E	WM	6	SE SE	3.9
TOTAL:					68.6

***Transfer Review Criteria (OAR 690-380-4010)***

8. Water has been used within the last five years prior to the submittal of Transfer Application T-12882 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.
9. A well, 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-12882.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

**Determination and Proposed Action**

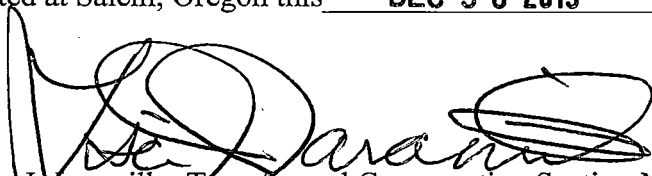
The change in place of use proposed in Transfer Application T-12882 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

*If Transfer Application T-12882 is approved, the final order will include the following:*

1. *The change in place of use proposed in Transfer Application T-12882 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 74137 and any related decree.*
3. *A portion of the water right evidenced by Permit G-13535 that is layered with a portion of the proposed "From" lands, described in Findings of Fact #4 and #5, will be cancelled at the time of proof.*
4. *Water right Certificate 74137 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
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/or existing) appropriation.*
  - b. *The water user shall maintain the meter or measuring device in good working order.*
  - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
6. *The former place of use of the transferred right, as modified herein, shall no longer receive water under the right.*

7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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 DEC 30 2019.



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

This Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or [Ken.D.Dowden@oregon.gov](mailto:Ken.D.Dowden@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 ~~30~~, 2019

SONDRA WILSON  
70090 HOLMES RD.  
SISTERS, OR 97759

SUBJECT: Water Right Transfer Application T-12882

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12882. 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](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-12882  
Jeremy T. Giffin, District 11 Watermaster (*via e-mail*)  
Michele Sims, Agent for the applicant (*via e-mail*)

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