

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12985, Lake County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACE OF USE AND
	)	PARTIAL DIMINISHMENT OF A
	)	PORTION OF A WATER RIGHT

**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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

**Applicant**

PETER TALBOTT AND PAMELA TALBOTT  
AS TRUSTEES OF THE TALBOTT FAMILY  
REVOCABLE LIVING TRUST  
17614 TUNNEL HILL ROAD  
LAKEVIEW, OR 97630

**Findings of Fact**

1. On July 23, 2018, PETER TALBOTT AND PAMELA TALBOTT, AS TRUSTEES OF THE TALBOTT FAMILY REVOCABLE LIVING TRUST, filed an application to change the place of use under Certificate 93497. The Department assigned the application number T-12985.
2. On July 23, 2018, the applicant submitted with the application a request to partially diminish water right Certificate 87729 and provided an affidavit for the voluntary partial diminution of the right.
3. Notice of the application for transfer was published on July 31, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the 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.
--

4. On March 9, 2020, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12985Error! Reference source not found. to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 10, 2020, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.

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

**Certificate:** 93497 in the name of LAKEVIEW WATER USERS INC.  
(confirmed by decree)  
**Use:** IRRIGATION of 5.25 ACRES  
**Priority Date:** JANUARY 21, 1907, DREWS CREEK AND JULY 31, 1908, for COTTONWOOD CREEK  
**Rate:** 0.065 CUBIC FOOT PER SECOND  
**Limit/Duty:** The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.065 CUBIC FOOT PER SECOND (CFS); being 0.035 CFS from DREWS CREEK AND RESERVOIR and 0.030 CFS from COTTONWOOD CREEK AND RESERVOIR, or its equivalent in case of rotation, measured at the point of diversion from the source.  
**Source:** DREWS CREEK and DREWS CREEK RESERVOIR, COTTONWOOD CREEK and COTTONWOOD RESERVOIR tributary to GOOSE LAKE

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	18 E	WM	11	SE NW	DREWS CREEK - 1850 FEET SOUTH AND 3400 FEET WEST FROM THE NE CORNER OF SECTION 11
40 S	18 E	WM	5	SW SE	DREWS CREEK RESERVOIR - 120 FEET NORTH AND 1820 FEET WEST FROM THE SE CORNER OF SECTION 5
39 S	19 E	WM	16	NE NE	COTTONWOOD CREEK - 860 FEET SOUTH AND 1120 FEET WEST FROM THE NE CORNER OF SECTION 16
38 S	19 E	WM	29	NW SW	COTTONWOOD RESERVOIR - 580 FEET SOUTH AND 900 FEET EAST FROM THE W1/4 CORNER OF SECTION 29

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	19 E	WM	6	SW SE	2.00
40 S	19 E	WM	8	NE SE	0.44
40 S	19 E	WM	8	NE SE	0.56
40 S	19 E	WM	16	SW NE	2.05
40 S	19 E	WM	17	NE NE	0.20
Total					5.25

6. Transfer Application T-12985 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	19 E	WM	32	SW NE	2.32
39 S	19 E	WM	32	SE NE	2.93
Total					5.25

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

- 7. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 8. A diversion structure and ditch 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-12985.
- 9. The proposed change would not result in injury to other water rights.
- 10. The proposed change would not result in enlargement of the water rights.
- 11. All other application requirements are met.

**Partial Diminution of a Water Right**

12. On July 23, 2018, an affidavit requesting that a portion of Certificate 87729 be diminished from primary irrigation to supplemental irrigation was received from Peter and Pamela Talbott as Trustees of the Talbott Family Revocable Living Trust. The right to be diminished is as follows:

**Certificate:** 87729 in the name of JIM STEWART (perfected under Permit G-9721)  
**Use:** IRRIGATION of 5.25 ACRES  
**Priority Date:** NOVEMBER 19, 1981  
**Rate:** 0.065 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 SUMP in the COTTONWOOD CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	19 E	WM	32	SE NE	1250 FEET NORTH AND 400 FEET WEST FROM E1/4 CORNER, SECTION 32

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	19 E	WM	32	SW NE	2.32
39 S	19 E	WM	32	SE NE	2.93
TOTAL					5.25

**Determination and Proposed Action**

The change in place of use proposed in Transfer Application T-12985 appears 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 and the portion of the right to be diminished will be diminished.

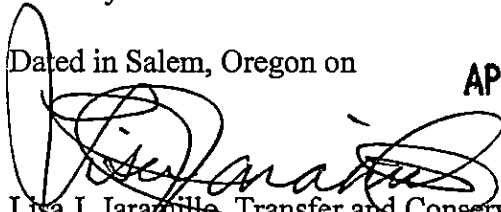
*If Transfer Application T-12985 is approved, the final order will include the following:*

- 1. The change in place of use proposed in Transfer Application T-12985 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 Certificate 93497 and any related decree.*
- 3. Water right Certificates 93497 and 87729 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer and partial diminishment.*
- 4. The former place of use of the transferred right shall no longer receive water under the right.*
- 5. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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.*

6. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued in the name of Lakeview Water Users Inc.

Dated in Salem, Oregon on

APR 07 2021

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

This Preliminary Determination was prepared by Joan Smith. If you have questions about the information in this document, you may reach me at 503-986-0892 or Joan.M.Smith@oregon.gov.

**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.



# Oregon

Kate Brown, Governor

**Water Resources Department**

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

April 7, 2021

VIA E-MAIL

TALBOTT FAMILY REVOCABLE LIVING TRUST  
PETER AND PAMELA TALBOTT, TRUSTEES  
17614 TUNNEL HILL RD  
LAKEVIEW, OR 97630

SUBJECT: Water Right Transfer Application T-12985

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12985. 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 503-986-0892 or [Joan.M.Smith@Oregon.gov](mailto:Joan.M.Smith@Oregon.gov) if I may be of assistance.

Sincerely,

Joan Smith

Transfer Specialist

Transfer and Conservation Section

cc: T-12985  
Brian M. Mayer, District 12 Watermaster (*via e-mail*)  
Hollie Cannon, Agent for the applicant (*via e-mail*)  
Lakeview Water Users Inc.

encs