

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

In the Matter of Transfer Application)
T-10284, Lake County)
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PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF A
CHANGE IN POINT OF
APPROPRIATION, AN ADDITIONAL
POINT OF APPROPRIATION AND A
CHANGE IN PLACE OF USE

Authority

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

LARRY AND TARA GRASSMAN
PO BOX 101
CHRISTMAS VALLEY, OR 97641

Agent

GLENDER’S HYDRO TECH SERVICES
Attn - DENNIS GLENDER
8664 SW SAND RIDGE RD.
CROOKED RIVER RANCH, OR 97760

Findings of Fact

Background

1. On December 18, 2006, Larry And Tara Grassman filed an application to transfer the place of use and point of appropriation under Certificate 75883, and to transfer the place of use and add an additional point of appropriation under Certificate 81418. The Department assigned the application number T-10284.

2. The entirety of the first right to be transferred is as follows:

Certificate: 75883 in the name of ROBEY RANCHES (perfected under Permit G-9077)

Use: IRRIGATION of 116.5 ACRES

Priority Date: OCTOBER 14, 1980

Rate: 1.46 CUBIC FEET PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year

Source: A WELL in the FORT ROCK BASIN

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.

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
27 S	16 E	WM	11	SW SW	1310 FEET NORTH AND 1310 FEET EAST FROM THE SW CORNER OF SECTION 11

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	16 E	WM	11	NE SW	34.6
27 S	16 E	WM	11	NW SW	33.9
27 S	16 E	WM	11	SW SW	14.3
27 S	16 E	WM	11	SE SW	33.7

3. Transfer Application T-10284 proposes to move the authorized point of appropriation approximately 8 miles in an easterly direction from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
27 S	18 E	WM	7	NE NW	1295 FEET SOUTH AND 1250 FEET WEST FROM THE N1/4 CORNER OF SECTION 7

4. Transfer Application T-10284 also proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Tax Lot	Acres
27 S	18 E	WM	7	NW NE		2700	0.7
27 S	18 E	WM	7	SW NE		2700	0.7
27 S	18 E	WM	7	NE NW		2703	34.2
27 S	18 E	WM	7	NW NW	1	2702	29.0
27 S	18 E	WM	7	SW NW	2	2702	28.0
27 S	18 E	WM	7	SE NW		2703	23.9

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

Certificate: 81814 in the name of DAVID AXON (perfected under Permit G-10701)

Use: IRRIGATION of 9.5 ACRES

Priority Date: NOVEMBER 3, 1983

Rate: 0.119 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre during the irrigation season of each year

Source: A WELL in the FORT ROCK VALLEY BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
28 S	16 E	WM	10	SW NW	1320 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 10

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
28 S	16 E	WM	10	NW NW	9.5

6. Transfer Application T-10284 proposes to add an authorized point of appropriation approximately 10.8 miles in an easterly direction from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
27 S	18 E	WM	7	NE NW	1295 FEET SOUTH AND 1250 FEET WEST FROM THE N1/4 CORNER OF SECTION 7

7. Transfer Application T-10284 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	18 E	WM	7	SE NW	9.5

8. Notice of the application for transfer was published on December 26, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
9. On February 14, 2007, the Department mailed a copy of the *draft* Preliminary Determination proposing to approve Transfer Application T-10284 to the applicants. The cover letter that accompanied the *draft* Preliminary Determination set forth a deadline of March 21, 2007, for the applicants to respond with comments. On March 19, May 30, August 1 and September 19, 2007, the applicants provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
10. Evidence was submitted with the application indicating that water has been used within the last five years according to the terms and conditions of the rights. The existing vegetation on the lands to which Certificate 75883 is appurtenant (SWSW, Section 27, T16S R11E) suggests that there has been extended period of time during which the right was not exercised. However, the information in the record is not sufficient to initiate cancellation proceedings under ORS 540.631.
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-10284.
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.

Determination and Proposed Action

The changes in place of use and point of appropriation and the additional point of appropriation proposed in application T-10284 appear to be consistent with the requirements of ORS 537.705, 540.505 to 540.580 and OAR 690-380-5000, and will be approved provided that protests are not filed pursuant to OAR 690-380-4030.

If approved, the changes and subsequent use of water shall be subject to the following conditions:

1. The right to 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 75883 and 81814 and any related decree.
2. Certificates 75883 and 81814 will be cancelled. A new certificate will be issued describing that portion of Certificate 81814 not involved in this transfer.
3. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
4. The quantity of water diverted at the additional/new point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. The former place of use of the transferred water shall no longer receive water as part of these rights.
6. Prior to diverting water at the new point of appropriation, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
7. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2009**. A Claim of Beneficial Use prepared by a Certified Water Rights 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.
8. When satisfactory proof of the completed changes is received, new certificates confirming the portions of the rights transferred will be issued.

Dated at Salem, Oregon this 5 day of October 2007.



PCW
Phillip C. Ward, Director

This Preliminary Determination was prepared by Susan Douthit. If you have any questions about the information in this preliminary determination, you may reach me at (503) 986-0858 or SusanM.Douthit@wrđ.state.or.us

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.