

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

In the Matter of Transfer Application) FINAL ORDER APPROVING ADDITIONAL
T-13552, Morrow County) POINTS OF APPROPRIATION

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

PORT OF MORROW
ATTN: MIFF DEVIN
2 MARINE DRIVE
BOARDMAN, OR 97818

Findings of Fact

1. On November 5, 2020, PORT OF MORROW filed an application for additional points of appropriation under Certificate 90019. The Department assigned the application number T-13552.
2. Notice of the application for transfer was published on November 24, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 27, 2022, the applicant provided a revised map and table, and provided an accurate description of the authorized point of appropriation.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

4. On November 17, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13552 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of November 13, 2022, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer and requested additional time for completion of the Transfer.
5. On February 22, 2023, the Department issued a Preliminary Determination proposing to approve Transfer T-13552 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on February 28, 2023, and in the Heppner Gazette newspaper on March 1 and 8, 2023, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

6. The right to be transferred is as follows:

Certificate: 90019 in the name of PORT OF MORROW (perfected under Permit G-5332)
Use: MUNICIPAL USES
Priority Date: MAY 31, 1974
Rate: 2.0 CUBIC FEET PER SECOND
Source: A WELL tributary to the COLUMBIA RIVER

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	10	NE NW	PORT WELL NO. 3 - 1073 FEET SOUTH AND 1348 FEET EAST FROM THE NW CORNER OF SECTION 10

Authorized Place of Use:

MUNICIPAL USES
THE PORT OF MORROW SERVICE AREA NEAR BOARDMAN OREGON

7. Certificate 90019, describes the authorized point of appropriation (POA), however, the applicant supplied information that describes the point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	10	NE NW	PORT WELL NO. 2 - 1069 FEET SOUTH AND 1378 FEET EAST FROM THE NW CORNER OF SECTION 10

8. Transfer Application T-13552 proposes additional points of appropriation with approximate distances from the authorized point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance in mile from the authorized POA
4 N	25 E	WM	2	SW SW	WELL B1 - 855 FEET NORTH AND 65 FEET EAST FROM THE SW CORNER OF SECTION 2	0.83
4 N	25 E	WM	3	SW SE	WELL D1 - 475 FEET NORTH AND 2640 FEET EAST FROM THE SW CORNER OF SECTION 3	0.37

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance in mile from the authorized POA
4 N	25 E	WM	9	NE NE	WELL C1 - 235 FEET SOUTH AND 670 FEET WEST FROM THE NE CORNER OF SECTION 9	0.42
4 N	25 E	WM	10	NE NE	WELL A1 - 1230 FEET SOUTH AND 1170 FEET WEST FROM THE NE CORNER OF SECTION 10	0.51

Transfer Review Criteria (OAR 690-380-4010)

9. Water has been used within the last five years prior to the submittal of Transfer Application T-13552 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.
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

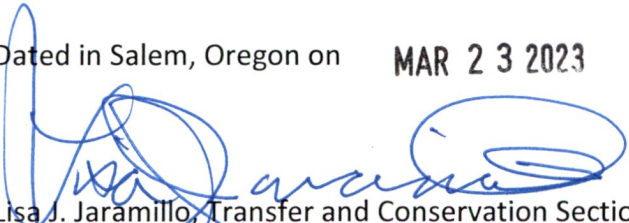
The additional points of appropriation proposed in Transfer Application T-13552 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional points of appropriation proposed in Transfer Application T-13552 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 90019 and any related decree.
3. Water right Certificate 90019 is cancelled.
4. The quantity of water diverted at the additional points of appropriation (WELLS A1, B1, C1, and D1), together with that diverted at the original point of appropriation (POA No. 2), shall not exceed the quantity of water lawfully available at the original point of appropriation.

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.
 - 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. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2030**. 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 in Salem, Oregon on **MAR 23 2023**


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

Mailing date: **MAR 24 2023**