

5. On April 4, 2019, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12820 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on April 9, 2019, and in the East Oregonian newspaper on April 13 and 20, 2019, 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: 43933 in the name of LAMB-WESTON, INC. (perfected under Permit G-4947)

Use: INDUSTRIAL (FOOD PROCESSING)

Priority Date: JANUARY 21, 1972

Rate: 2.66 CUBIC FEET PER SECOND (CFS)

Source: MARTIN WELL No. 1 within the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	28 E	WM	19	NE SW	2430 FEET NORTH AND 2340 FEET EAST FROM THE SW CORNER OF SECTION 19

Authorized Place of Use:

INDUSTRIAL				
Twp	Rng	Mer	Sec	Q-Q
4 N	28 E	WM	19	SE SW
4 N	28 E	WM	30	NE NW

7. Transfer Application T-12820 proposes two additional points of appropriation southwest approximately 1000 feet to Well No. 2 and south 3200 feet to Well No. 3 located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	28 E	WM	19	NE SW	WELL No. 2 - 1680 FEET NORTH AND 1640 FEET EAST FROM THE SW CORNER OF SECTION 19
4 N	28 E	WM	30	NE NW	WELL No.3 - 776.5 FEET SOUTH AND 2141.5 FEET EAST FROM THE NW CORNER OF SECTION 30

8. The Department reviewed whether the proposed additional points of appropriation would lead to enlargement of the right, or cause injury to nearby existing rights. The Department has determined the magnitude of pumping is not expected to prevent nearby wells from accessing their usual and accustomed amount of water. It has also determined there will not be injury to existing downstream water rights, considering the water right subject to transfer has been used for over 30 years and is subject to all terms and conditions of the Ordinance Critical Ground Water Area. Stream depletion impacts from Well #1 are already equilibrated, therefore the proposed additional wells will not change the net stream depletion as conditioned herein.

9. The Department finds, based on the information provided, that the proposed (existing) points of appropriation, Well No. 2 (UMAT 2402) and Well No. 3 (UMAT 2601) develop the same (source) aquifer as that of the original authorized Well No. 1 (UMAT 2403) and comply with the Department's administrative rule under OAR 690-380-2110 (2) and OAR 690-380-4010(2)(e).

Transfer Review Criteria (OAR 690-380-4010)

10. Water has been used within the last five years prior to the submittal of Transfer Application T-12820 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.
11. A well, pump, pipeline, and delivery 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-12820.
12. The proposed change, as conditioned, would not result in enlargement of the right, as long as the use of the two additional points of appropriation (Well Nos. 2 and 3), used together with authorized Martin Well No. 1, are limited to a maximum combined total instantaneous rate of 2.66 cfs under this right at any one time and does not exceed the maximum annual duty allowed for the original use, being 1922.38 acre-feet per year.
13. The proposed change would not result in injury to other water rights.
14. All other application requirements are met.

Conclusions of Law

The additional points of appropriation proposed in Transfer Application T-12820 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-12820 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 43933 and any related decree.
3. Water right Certificate 43933 is cancelled.
4. The quantity of water diverted at the new additional points 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 amount of water diverted from Martin Well No. 1, Well No. 2 and Well No. 3 for year-round industrial use under this right is limited to a maximum combined total instantaneous rate of not to exceed 2.66 cfs at any one time from the wells and is further restricted to a maximum total annual duty of 1922.38 acre-feet per year.
6. 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 device(s); provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
7. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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.
9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on **MAY 28 2019**



Dwight French, Water Right Services Administrator, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

Mailing date: **MAY 29 2019**