

5. On June 29, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12917 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 1, 2021, 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.
6. On September 29, 2021, the Department issued a Preliminary Determination proposing to approve Transfer T-12917 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 October 5, 2021, and in the Woodburn Independent Newspaper on October 6 and 13, 2021 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. The first right to be transferred is as follows:

Certificate: 35370 in the name of MAURICE H. MERTEN (perfected under Permit G-2556)
Use: IRRIGATION of 86.2 ACRES
Priority Date: DECEMBER 19, 1963
Rate: 0.82 CUBIC FOOT PER SECOND (CFS)
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL a tributary of MISSION CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	30	NW NE	63	POA 2 - 430 FEET SOUTH AND 1920 FEET WEST FROM THE NE CORNER OF LAMBERT DLC 63

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	19	SE SW	63	0.8
4 S	2 W	WM	19	SW SE	63	1.9
4 S	2 W	WM	19	SE SE	63	1.3
4 S	2 W	WM	30	NE NE	63	20.2
4 S	2 W	WM	30	NW NE	63	33.8
4 S	2 W	WM	30	SW NE	63	8.0
4 S	2 W	WM	30	SE NE	63	2.0
4 S	2 W	WM	30	NE NW	63	17.8
4 S	2 W	WM	30	SE NW	63	0.4
Total						86.2

8. Transfer Application T-12917 proposes additional points of appropriation, under Certificate 35370, both approximately 1.0 mile from authorized point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	20	SW SE	94	APOA 3 - 490 FEET SOUTH AND 2230 FEET WEST FROM THE NW CORNER OF LEARD DLC 95
4 S	2 W	WM	29	NW NE	94	APOA 4 - 1840 FEET SOUTH AND 3270 FEET EAST FROM THE NW CORNER OF SERVANT DLC 94

9. The second right to be transferred is as follows:

Certificate: 35496 in the name of EDWARD T. BRENTANO (perfected under Permit G-2885)

Use: IRRIGATION of 201.9 ACRES

Priority Date: APRIL 23, 1965

Rate: 1.78 CUBIC FEET PER SECOND (CFS)

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL a tributary of MISSION CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	20	SW SE	94	POA 3 - 490 FEET SOUTH AND 2230 FEET WEST FROM THE NW CORNER OF LEARD DLC 95

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	19	SE SE	94	9.1
4 S	2 W	WM	20	SW SW	94	23.4
4 S	2 W	WM	20	SE SW	94	24.2
4 S	2 W	WM	20	NE SE	86	34.4
4 S	2 W	WM	20	NW SE	86	4.0
4 S	2 W	WM	20	SW SE	86	1.8
4 S	2 W	WM	20	SW SE	94	24.8
4 S	2 W	WM	20	SE SE	86	14.6
4 S	2 W	WM	20	SE SE	94	20.4
4 S	2 W	WM	29	NE NE	94	8.6
4 S	2 W	WM	29	NW NE	94	11.0
4 S	2 W	WM	29	NE NW	94	10.8
4 S	2 W	WM	29	NW NW	94	10.8
4 S	2 W	WM	30	NE NE	94	4.0
Total						201.9

10. Transfer Application T-12917 proposes an additional point of appropriation under Certificate 35496, approximately 0.3 mile from authorized point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	29	NW NE	94	APOA 4 - 1840 FEET SOUTH AND 3270 FEET EAST FROM THE NW CORNER OF SERVANT DLC 94

11. The third right to be transferred is as follows:

Certificate: 35497 in the name of EDWARD T. BRENTANO (perfected under Permit G-3171)
Use: IRRIGATION of 46.8 ACRES
Priority Date: FEBRUARY 1, 1966
Rate: 0.59 CUBIC FOOT PER SECOND (CFS)
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL a tributary of unnamed stream (MISSION CREEK)

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	20	SW SE	94	POA 3 - 490 FEET SOUTH AND 2230 FEET WEST FROM THE NW CORNER OF LEARD DLC 95

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	19	SE SW	Suave DLC 62	3.6
4 S	2 W	WM	19	NE SE	St. Paul's Catholic Mission DLC 75	9.0
4 S	2 W	WM	19	SW SE	Suave DLC 62	14.2
4 S	2 W	WM	19	SE SE	St. Paul's Catholic Mission DLC 75	1.6
4 S	2 W	WM	19	SE SE	Suave DLC 62	18.4
Total						46.8

12. Transfer Application T-12917 proposes an additional point of appropriation under Certificate 35497, approximately 0.3 mile from authorized point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	29	NW NE	94	APOA 4 - 1840 FEET SOUTH AND 3270 FEET EAST FROM THE NW CORNER OF SERVANT DLC 94

13. The fourth right to be transferred is as follows:

Certificate: 40094 in the name of EDWARD T. BRENTANO (perfected under Permit G-3920)
Use: IRRIGATION of 47.8 ACRES
Priority Date: DECEMBER 28, 1967
Rate: 0.6 CUBIC FOOT PER SECOND (CFS)
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL a tributary of MISSION CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	29	NW NE	94	POA 4 - 1840 FEET SOUTH AND 3270 FEET EAST FROM THE NW CORNER OF SERVANT DLC 94

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	29	NE NE	94	3.0
4 S	2 W	WM	29	NW NE	94	14.0
4 S	2 W	WM	29	SW NE	94	6.1
4 S	2 W	WM	29	SE NE	94	0.9
4 S	2 W	WM	29	NE NW	94	6.1
4 S	2 W	WM	29	NW NW	94	17.7
Total						47.8

14. Transfer Application T-12917 proposes to move a portion of the point of appropriation under Certificate 40094, approximately 0.3 to 0.7 mile from the authorized point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	29	SW NW	56	RD POA 5 - 3450 FEET NORTH AND 470 FEET EAST FROM THE NW CORNER OF DLC 56
4 S	2 W	WM	30	SE SE	62	RD POA 4 - 1565 FEET NORTH AND 400 FEET WEST FROM THE SE CORNER OF SECTION 30
4 S	2 W	WM	32	SE SE	62	RD POA 3 - 425 FEET SOUTH AND 180 FEET EAST FROM THE NW CORNER OF SECTION 32

15. Transfer Application T-12917 proposes additional points of appropriation under Certificate 40094, approximately 0.3 mile from the authorized point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	20	SW SE	95	APOA 3 - 490 FEET SOUTH AND 2230 FEET WEST FROM THE NW CORNER OF DLC 95

16. Transfer Application T-12917 proposes to assign specific wells to specific acres under Certificate 40094 as follows:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	POA
4 S	2 W	WM	29	NE NE	3.0	POA 4 APOA 3
4 S	2 W	WM	29	NW NE	14.0	POA 4 APOA 3
4 S	2 W	WM	29	SW NE	6.1	POA 4 APOA 3
4 S	2 W	WM	29	SE NE	0.9	POA 4 APOA 3
4 S	2 W	WM	29	NE NW	5.0	POA 4 APOA 3
4 S	2 W	WM	29	NE NW	1.1	RD POA 5 RD POA 4 RD POA 3

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	POA
4 S	2 W	WM	29	NW NW	15.0	POA 4 APOA 3
4 S	2 W	WM	29	NW NW	2.7	RD POA 5 RD POA 4 RD POA 3
Total					47.8	

17. The fifth right to be transferred is as follows:

Certificate: 94734 in the name of RAYMOND T. DAVIDSON (perfected under Permit G-4085)

Use: IRRIGATION of 2.7 ACRES

Priority Date: APRIL 16, 1968

Rate: 0.02 CUBIC FEET 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, shall be 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year; provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

Source: A WELL a tributary of WILLAMETTE RIVER

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	29	SW NW	94	POA 5 - 3450 FEET NORTH AND 470 FEET EAST FROM THE NW CORNER OF BERNIER DLC 56

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	29	NE NW	94	1.2
4 S	2 W	WM	29	SE NW	94	1.5
Total						2.7

18. Transfer Application T-12917 proposes to move the point of appropriation under Certificate 94734, approximately 0.5 to 0.7 mile from authorized point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	20	SW SE	94	POA 3 - 490 FEET SOUTH AND 2230 FEET WEST FROM THE NW CORNER OF LEARD DLC 95
4 S	2 W	WM	29	NW NE	94	POA 4 - 1840 FEET SOUTH AND 3270 FEET EAST FROM THE NW CORNER OF SERVANT DLC 94

Transfer Review Criteria (OAR 690-380-4010)

19. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
20. 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-12917.
21. The proposed changes would not result in enlargement of the rights
22. The proposed changes would not result in injury to other water rights.
23. All other application requirements are met.

Conclusions of Law

The changes in points of appropriation and additional points of appropriation proposed in Transfer Application T-12917 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

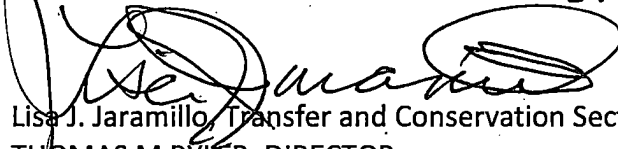
Now, therefore, it is ORDERED

1. The changes in points of appropriation and additional points of appropriation proposed in Transfer Application T-12917 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 Certificates 35370, 35496, 35497, 40094, and 94734 and any related decree.
3. Water right Certificates 35370, 35496, 35497, 40094, and 94734 are cancelled.
4. The quantity of water diverted under Certificate 35370 at the new additional points of appropriation (APOA 3 and APOA 4), shall not exceed the quantity of water lawfully available at the original point of appropriation (POA 2).
5. The quantity of water diverted under Certificate 94734 at the new points of appropriation (POA 3, POA 4), 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 (POA 5).
6. The quantity of water diverted under Certificate 35496, at the new additional point of appropriation (APOA 4), together with that diverted at the original point of appropriation (POA 3), shall not exceed the quantity of water lawfully available at the original points of appropriation (POA 3).
7. The quantity of water diverted under Certificate 35497, at the new additional point of appropriation (APOA 4), together with that diverted at the original point of appropriation (POA 3), shall not exceed the quantity of water lawfully available at the original points of appropriation (POA 3).

8. The quantity of water diverted under Certificate 40094, at the new points of appropriation (RD POA 3, RD POA 4, RD POA 5), shall not exceed the quantity of water lawfully available at the original point of appropriation (POA 4).
9. The quantity of water diverted under Certificate 40094, at the new additional point of appropriation (APOA 3), together with that diverted at the original point of appropriation (POA 4), shall not exceed the quantity of water lawfully available at the original point of appropriation(POA 4).
10. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
11. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2025**. 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 changes and full beneficial use of the water.
12. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on .

DEC 27 2021



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

Mailing Date: **DEC 28 2021**