

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

|                                       |   |                          |
|---------------------------------------|---|--------------------------|
| In the Matter of Transfer Application | ) | FINAL ORDER APPROVING AN |
| T-13055, Yamhill County               | ) | ADDITIONAL POINT 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**

WILLAMETTE VALLEY LAND, LLC  
C/O PAUL KUEHNE  
PO BOX 99  
LAFAYETTE, OR 97127

**Findings of Fact**

1. On November 1, 2018, WILLAMETTE VALLEY LAND, LLC, C/O PAUL KUEHNE filed an application for an additional point of appropriation under Certificates 39550 and 39557. The Department assigned the application number T-13055.
2. Notice of the application for transfer was published on November 6, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 3, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13055 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 6, 2020, 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.

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 February 3, 2020, the Department issued a Preliminary Determination proposing to approve Transfer T-13055 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 4, 2020, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
5. The portion of the first right to be transferred is as follows:

**Certificate:** 39550 in the name of MARSHAL H. CAIN (perfected under Permit G-3348)  
**Use:** IRRIGATION of 39.2 ACRES  
**Priority Date:** APRIL 6, 1967  
**Rate:** 0.29 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, 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 SALT CREEK (SOUTH YAMHILL RIVER)

**Authorized Point of Appropriation:**

| Twp | Rng | Mer | Sec | Q-Q   | DLC | Measured Distances   |
|-----|-----|-----|-----|-------|-----|--|
| 5 S | 4 W | WM  | 18  | NW NW | 65  | WELL #1 - 30 FEET NORTH AND 930 FEET EAST FROM THE NE CORNER OF DLC 66 |

**Authorized Place of Use:**

| IRRIGATION |     |     |     |       |     |       |
|------------|-----|-----|-----|-------|-----|-------|
| Twp        | Rng | Mer | Sec | Q-Q   | DLC | Acres |
| 5 S        | 4 W | WM  | 7   | SW SW | 65  | 10.0  |
| 5 S        | 4 W | WM  | 7   | SE SW | 65  | 0.6   |
| 5 S        | 4 W | WM  | 18  | NE NW | 65  | 1.5   |
| 5 S        | 4 W | WM  | 18  | NW NW | 65  | 27.1  |
| Total      |     |     |     |       |     | 39.2  |

6. Transfer Application T-13055 proposes an additional point of appropriation approximately 1019.6 feet from the existing point of appropriation to:

| Twp | Rng | Mer | Sec | Q-Q   | DLC | Measured Distances   |
|-----|-----|-----|-----|-------|-----|--|
| 5 S | 4 W | WM  | 7   | SE SW | 65  | PARADISE WELL 1 - 320 FEET NORTH FROM THE SE CORNER OF THE SWSW OF SECTION 7 |

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

**Certificate:** 39557 in the name of MARSHAL H. CAIN (perfected under Permit G-4166)  
**Use:** IRRIGATION of 49.8 ACRES  
**Priority Date:** MAY 29, 1968  
**Rate:** 0.20 CUBIC FOOT PER SECOND FROM WELL #1

**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 per acre, 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:** ONE WELL a tributary of SALT CREEK (YAMHILL RIVER)

**Authorized Point of Appropriation:**

| Twp | Rng | Mer | Sec | Q-Q   | DLC | Measured Distances   |
|-----|-----|-----|-----|-------|-----|--|
| 5 S | 4 W | WM  | 18  | NW NW | 65  | WELL #1 - 30 FEET NORTH AND 930 FEET EAST FROM THE NE CORNER OF DLC 66 |

**Authorized Place of Use:**

| IRRIGATION |     |     |     |       |      |     |       |
|------------|-----|-----|-----|-------|------|-----|-------|
| Twp        | Rng | Mer | Sec | Q-Q   | GLot | DLC | Acres |
| 5 S        | 4 W | WM  | 7   | SW SW |      | 65  | 1.0   |
| 5 S        | 4 W | WM  | 7   | SE SW | 5    |     | 1.8   |
| 5 S        | 4 W | WM  | 7   | SE SW |      | 65  | 3.0   |
| 5 S        | 4 W | WM  | 7   | SE SW |      | 43  | 4.2   |
| 5 S        | 4 W | WM  | 18  | NE NW | 3    |     | 4.5   |
| 5 S        | 4 W | WM  | 18  | NE NW |      | 65  | 7.7   |
| 5 S        | 4 W | WM  | 18  | NE NW |      | 43  | 8.4   |
| 5 S        | 4 W | WM  | 18  | NW NW |      | 65  | 2.7   |
| 5 S        | 5 W | WM  | 12  | SE SE |      | 74  | 4.4   |
| 5 S        | 5 W | WM  | 13  | NE NE |      | 74  | 12.1  |
| Total      |     |     |     |       |      |     | 49.8  |

8. Transfer Application T-13055 proposes an additional point of appropriation approximately 1019.6 feet from the existing point of appropriation to:

| Twp | Rng | Mer | Sec | Q-Q   | DLC | Measured Distances  |
|-----|-----|-----|-----|-------|-----|---|
| 5 S | 4 W | WM  | 7   | SE SW | 65  | PARADISE WELL 1 - 320 FEET NORTH FROM THE SE CORNER OF THE SWSW CORNER OF SECTION 7 |

**Transfer Review Criteria (OAR 690-380-4010)**

9. 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.
10. 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-13055.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.

13. All other application requirements are met.

**Conclusions of Law**

The additional point of appropriation proposed in Transfer Application T-13055 is 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 point of appropriation proposed in Transfer Application T-13055 is 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 39550 and 39557, and any related decree.
3. Water right Certificates 39550 and 39557 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.
4. The quantity of water diverted at the new additional point of appropriation (Paradise Well 1), together with that diverted at the original points of appropriation (Well #1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #1).
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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.
7. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

**MAR 25 2020**

Dated in Salem, Oregon on \_\_\_\_\_



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

**APR 03 2020**

Mailing date: \_\_\_\_\_