

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

In the Matter of Transfer Application)	RECONSIDERATION OF A FINAL
T-12903, Harney County)	ORDER RECORDED IN SPECIAL
)	ORDER VOLUME 114, PAGES 653 -
)	657, WITHDRAWING A FINAL
)	ORDER AND ISSUING A
)	SUPERSEDING FINAL ORDER
)	APPROVING ADDITIONAL 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

WHITE HEREFORD RANCH, INC.
31053 EBEN RAY LANE
BURNS, OR-97720-9338

Findings of Fact

1. On April 17, 2018, WHITE HEREFORD RANCH INC. filed an application for an additional point of appropriation under Certificates 84120 and 89525. The Department assigned the application number T-12903.
2. Notice of the application for transfer was published on April 24, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On July 9, 2019, the Department sent a copy of the draft Preliminary Determination proposing to deny Transfer Application T-12903 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 8, 2019, for the applicant to respond.
4. On August 7, 2019, the agent for the applicant contacted the department for additional time to resolve deficiencies with the application.

*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.

5. On August 8, 2019 the Department gave the applicant a new deadline of August 15, 2019.
6. On August 12, 2019, the agent submitted the required documents to correct the deficiencies in the application.
7. On August 13, 2019, the Department contacted the agent by electronic correspondence a reminder of the requirement of the Report of Ownership that was also due by August, 15, 2019. No further information was received from the agent by the deadline.
8. On October 18, 2019, the Department issued a Preliminary Determination proposing to deny Transfer Application T-12903 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 October 22, 2019, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
9. On October 22, 2019, the Department received an incomplete Report of Land Ownership dated October 21, 2019, and notice of agreement. These were not received by the deadline or prior to the Preliminary Determination. Once a Preliminary Determination is published, the only change to the determination is to protest it pursuant to OAR 690-380-4030.
10. No protests were received within 30 days after the last date of publication of notice of the Preliminary Determination, the Department issued a Final Order to Deny Transfer Application T-12903 in Special Order Volume 114, pages 653 - 657.
11. On March 2, 2020 the Department received a Request for Reconsideration, because of the agent's error in missing the deadline to submit the requirements set out in the draft Preliminary Determination letter, and submitted the portion of the incomplete Report of Land Ownership, being a consent by deeded landowner affidavit dated February 24, 2020.
12. This order is issued to supersede the previous order recorded at Special Order Volume 114, pages 653 – 657.
13. The first right to be transferred is as follows:
 - Certificate:** 84120 in the name of EBEN RAY (perfected under Permit G-2234)
 - Use:** SUPPLEMENTAL IRRIGATION of 19.8 ACRES
 - Priority Date:** AUGUST 14, 1962
 - Rate:** 0.25 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, is 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer. The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

Source: WELL 1, tributary to FOLEY and NEWMAN SLOUGHS (SILVIES RIVER)

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	31 E	WM	5	SW NW	WELL 1 - 880 FEET NORTH AND 600 FEET EAST FROM THE W1/4 CORNER OF SECTION 5

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
23 S	31 E	WM	5	NW NW	4	3.5
23 S	31 E	WM	5	SW NW		3.7
23 S	31 E	WM	6	NE NE	11	6.4
23 S	31 E	WM	6	SE NE		6.2
					Total	19.8

14. Transfer Application T-12903 proposes additional points of appropriation located as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances	Approximate Distance from original point of appropriation in feet (ft.)
23 S	31 E	WM	5	NW NW	4	WELL 1 - 1071 FEET SOUTH AND 296 FEET EAST OF THE NW CORNER OF SECTION 5	600 ft.
23 S	31 E	WM	5	NW NW	4	NEW WELL - 1350 FEET NORTH AND 330 FEET EAST OF THE WEST 1/4 CORNER OF SECTION 5	450 ft.
23 S	31 E	WM	6	SE NE		WELL 2 - 1809 FEET SOUTH AND 285 FEET WEST FROM THE NE CORNER OF SECTION 6	1,030 ft.

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

Certificate: 89525 in the name of WILLIAM SPRINGSTON and NORMA SPRINGSTON (perfected under Permit G-12720)

Use: SUPPLEMENTAL IRRIGATION of 82.4 ACRES, BEING 65.9 ACRES FROM WELL #1 AND 16.5 ACRES FROM WELL #2

Priority Date: JANUARY 4, 1995

Rate: 1.03 CUBIC FEET PER SECOND (CFS), being 0.824 CFS from Well #1 and 0.206 CFS from Well #2.

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: WATER MAY BE APPROPRIATED FOR SUPPLEMENTAL IRRIGATION FROM MARCH 20 THROUGH SEPTEMBER 1 OF EACH YEAR.

Source: TWO WELLS IN THE SILVIES RIVER BASIN WITHIN THE MALHEUR LAKE BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	G Lot	Measured Distances
23 S	31 E	WM	5	NW NW	4	WELL 1 - 1071 FEET SOUTH AND 296 FEET EAST FROM THE NW CORNER OF SECTION 5
23 S	31 E	WM	6	SE NE		WELL 2 - 1809 FEET SOUTH AND 285 FEET WEST FROM THE NE CORNER OF SECTION 6

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	G Lot	Acres	Well
22 S	31 E	WM	31	SW SE		7.7	1
22 S	31 E	WM	31	SE SE		4.3	1
23 S	31 E	WM	5	NW NW	4	3.0	1
23 S	31 E	WM	5	SW NW		2.0	1
23 S	31 E	WM	6	NE NE	11	32.9	1
23 S	31 E	WM	6	NW NE	10	11.2	1
23 S	31 E	WM	6	SW NE	6	0.8	1
23 S	31 E	WM	6	SW NE	6	5.5	2
23 S	31 E	WM	6	SE NE		4.0	1
23 S	31 E	WM	6	SE NE		11.0	2
Total						82.4	

16. Transfer Application T-12903 proposes an additional point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances	Approximate Distance from original point of appropriation in feet (ft.)	
							Well 1	Well 2
23 S	31 E	WM	5	NW NW	4	NEW WELL - 1350 FEET NORTH AND 330 FEET EAST OF THE WEST 1/4 CORNER OF SECTION 5	1490 ft.	725 ft.

Transfer Review Criteria (OAR 690-380-4010)

17. Water has been used within the last five years prior to the submittal of Transfer Application T-12903 according to the terms and conditions of the rights.
18. The proposed change would not result in enlargement of the rights.
19. The proposed change would not result in injury to other water rights.
20. After the complete Report of Ownership information was received on March 2, 2020 the transfer application is complete.

Conclusions of Law

The additional points of appropriation proposed in Transfer Application T-12903 are consistent with the requirements of ORS 537-705 and 540-505 to 540-580 and OAR 690-380-5000.

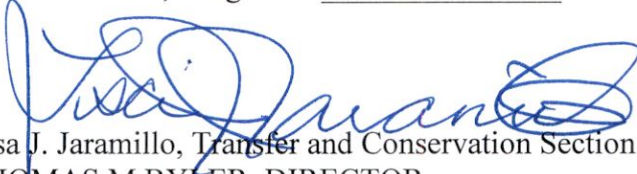
Now, therefore, it is ORDERED:

1. The additional points of appropriation proposed in Transfer Application T-12903 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 84120 and 89525 and any related decree.
3. Water right Certificates 84120 and 89525 are cancelled.
4. The quantity of water diverted at the additional points of appropriation (Well 1, New Well and Well 2), together with that diverted at the original point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original points of appropriation (Well 1) under Certificate 84120.
5. The quantity of water diverted at the additional points of appropriation (New Well), together with that diverted at the original point of appropriation (Well 1 and Well 2), shall not exceed the quantity of water lawfully available at the original points of appropriation (Well 1 and Well 2) under Certificate 89525.
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 devices; 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, 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.

9. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

APR 02 2020

Dated in Salem, Oregon on _____



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

Mailing date: APR 07 2020 _____