

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

In the Matter of Transfer Application            )     FINAL ORDER APPROVING ADDITIONAL  
T-13104, Malheur 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**

MONTE HEID  
5261 SOUTH ROAD L  
JAMIESON, OR 97909

**Findings of Fact**

1. On January 11, 2019, MONTE HEID filed an application for additional points of appropriation under Certificates 51777, 51778, 60415, and 82626. The Department assigned the application number T-13104.
2. Notice of the application for transfer was published on January 22, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 2, 2020, the Department contacted the applicant by written correspondence to notify the applicant and the applicant’s agent of a deficiency in the application. The application did not clearly explain the intent of the application with regards to the additional points of appropriation being utilized. The Department requested that the deficiencies be resolved by November 2, 2020. The agent submitted a revised Table 2 for each water right involved in T-13104, resolving the deficiency.

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 August 4, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13104 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 3, 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.
5. On December 1, 2021, the Department issued a Preliminary Determination proposing to approve Transfer T-13104 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 December 7, 2021, and in the Malheur Enterprise newspaper on December 8 and 15, 2021 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

6. The first right to be transferred is as follows:

**Certificate:** 51777 in the name of GUM CREEK FARMS INC. and KANSAS CITY LIFE INSURANCE, COMPANY (perfected under Permit G-6720)

**Use:** IRRIGATION of 246.2 ACRES

**Priority Date:** OCTOBER 1, 1971

**Rate:** 2.23 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 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** SHAFFER WELL 5, a tributary of GUM CREEK

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	5	SW SW	SHAFFER WELL 5 - 70 FEET NORTH AND 860 FEET EAST FROM THE SW CORNER OF SECTION 5

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	43 E	WM	5	NW SW	12.8
16 S	43 E	WM	5	SW SW	36.1
16 S	43 E	WM	5	SE SW	24.4
16 S	43 E	WM	5	SW SE	4.2
16 S	43 E	WM	6	NE SW	10.1
16 S	43 E	WM	6	NE SE	35.1
16 S	43 E	WM	6	NW SE	32.8
16 S	43 E	WM	6	SW SE	3.8

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	43 E	WM	6	SE SE	16.8
16 S	43 E	WM	8	NE NE	3.1
16 S	43 E	WM	8	NW NE	37.0
16 S	43 E	WM	8	SW NE	3.4
16 S	43 E	WM	8	NE NW	23.0
16 S	43 E	WM	8	NW NW	3.6
Total					246.2

7. The Department received information from the applicant that re-describes the location of the authorized point of appropriation for Certificate 51777 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	5	SW SW	SHAFFER WELL 5 - 175 FEET NORTH AND 921 FEET EAST FROM THE SW CORNER OF SECTION 5

8. Transfer Application T-13104 proposes additional points of appropriation approximately as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximated distance from original point of appropriation in miles (mi.)
16 S	42 E	WM	1	SE SE	WELL 1 (NEW) - 1307 FEET NORTH AND 1307 FEET WEST FROM THE SE CORNER OF SECTION 1	1.4 mi.
16 S	43 E	WM	6	NW SE	WELL 14 - 1672 FEET NORTH AND 2614 FEET WEST FROM THE SE CORNER OF SECTION 6	0.7 mi.
16 S	43 E	WM	6	SE SE	WELL 8 - 712 FEET NORTH AND 413 FEET WEST FROM THE SE CORNER OF SECTION 6	0.3 mi.
16 S	43 E	WM	8	SW NE	WELL 11 - 1525 FEET SOUTH AND 2018 FEET WEST FROM THE NE CORNER OF SECTION 8	0.5 mi.

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

**Certificate:** 51778 in the name of GUM CREEK FARMS and KANSAS CITY LIFE INSURANCE, COMPANY (perfected under Permit G-6719)

**Use:** SUPPLEMENTAL IRRIGATION of 246.2 ACRES

**Priority Date:** OCTOBER 1, 1971

**Rate:** 1.33 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 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

3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: SCHAFFER WELL 8, a tributary of GUM CREEK

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	6	SE SE	SCHAFFER WELL 8 - 540 FEET NORTH AND 460 FEET WEST FROM THE SE CORNER OF SECTION 6

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	43 E	WM	5	NW SW	12.8
16 S	43 E	WM	5	SW SW	36.1
16 S	43 E	WM	5	SE SW	24.4
16 S	43 E	WM	5	SW SE	4.2
16 S	43 E	WM	6	NE SW	10.1
16 S	43 E	WM	6	NE SE	35.1
16 S	43 E	WM	6	NW SE	32.8
16 S	43 E	WM	6	SW SE	3.8
16 S	43 E	WM	6	SE SE	16.8
16 S	43 E	WM	8	NE NE	3.1
16 S	43 E	WM	8	NW NE	37.0
16 S	43 E	WM	8	SW NE	3.4
16 S	43 E	WM	8	NE NW	23.0
16 S	43 E	WM	8	NW NW	3.6
Total					246.2

10. The Department received information from the applicant that re-describes the location of the authorized point of appropriation for Certificate 51778 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	6	SE SE	SHAFFER WELL 8 - 712 FEET NORTH AND 413 FEET WEST FROM THE SE CORNER OF SECTION 6

11. Transfer Application T-13104 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance for original point of appropriation in miles (mi.)
16 S	42 E	WM	1	SE SE	WELL 1 (NEW) - 1307 FEET NORTH AND 1307 FEET WEST FROM THE SE CORNER OF SECTION 1	1.2 mi.
16 S	43 E	WM	5	SW SW	WELL 5 - 175 FEET NORTH AND 921 FEET EAST FROM THE SW CORNER OF SECTION 5	0.3 mi.
16 S	43 E	WM	6	NW SE	WELL 14 - 1672 FEET NORTH AND 2614 FEET WEST FROM THE SE CORNER OF SECTION 6	0.5 mi.

Twp	Rng	Mer.	Sec	Q-Q	Measured Distances	Approximate distance for original point of appropriation in miles (mi.)
16 S	43 E	WM	8	SW NE	WELL 11 - 1525 FEET SOUTH AND 2018 FEET WEST FROM THE NE CORNER OF SECTION 8	0.8 mi.

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

**Certificate:** 60415 in the name of GUM CREEK FARMS, INC. (perfected under Permit G-10460)

**Use:** IRRIGATION of 33.6 ACRES

**Priority Date:** FEBRUARY 5, 1981

**Rate:** 0.42 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** WELL 11 in the GUM CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	8	SW NE	WELL 11 - 1520 FEET SOUTH AND 1980 FEET WEST FROM THE NE CORNER OF SECTION 8

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	43 E	WM	8	NE NE	17.2
16 S	43 E	WM	8	NW NE	0.4
16 S	43 E	WM	8	SW NE	2.0
16 S	43 E	WM	8	SE NE	14.0
Total					33.6

13. The Department received information from the applicant that re-describes the location of the authorized point of appropriation for Certificate 60415 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	8	SW NE	WELL 11 - 1525 FEET SOUTH AND 2018 FEET WEST FROM THE NE CORNER OF SECTION 8

14. Transfer Application T-13104 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance for original point of appropriation in miles (mi.)
16 S	42 E	WM	1	SE SE	WELL 1 (NEW) - 1307 FEET NORTH AND 1307 FEET WEST FROM THE SE CORNER OF SECTION 1	1.9 mi.
16 S	43 E	WM	5	SW SW	WELL 5 - 175 FEET NORTH AND 921 FEET EAST FROM THE SW CORNER OF SECTION 5	0.5 mi.
16 S	43 E	WM	6	NW SE	WELL 14 - 1672 FEET NORTH AND 2614 FEET WEST FROM THE SE CORNER OF SECTION 6	1.3 mi.
16 S	43 E	WM	6	SE SE	WELL 8 - 712 FEET NORTH AND 413 FEET WEST FROM THE SE CORNER OF SECTION 6	0.8 mi.

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

**Certificate:** 82626 in the name of GUM CREEK FARMS (perfected under Permit G-10461)

**Use:** IRRIGATION of 60.4 ACRES

**Priority Date:** FEBRUARY 5, 1981

**Rate:** 0.76 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) and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, and shall be further limited to appropriation of water only to the extent that it does not impair or substantially interfere with existing surface water rights of others.

**Source:** WELL #14 in the GUM CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	6	NE SW	WELL #14 - 1700 FEET NORTH AND 3350 FEET WEST FROM THE SE CORNER OF SECTION 6

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	43 E	WM	5	NE SW	4.9
16 S	43 E	WM	5	NW SW	3.7
16 S	43 E	WM	5	SW SW	1.1
16 S	43 E	WM	5	SE SW	16.9
16 S	43 E	WM	5	SW SE	22.1
16 S	43 E	WM	5	SE SE	3.9

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	43 E	WM	6	NW SE	4.5
16 S	43 E	WM	8	NE NE	2.1
16 S	43 E	WM	8	NW NE	1.2
Total					60.4

16. The Department received information from the applicant that re-describes the location of the authorized point of appropriation for Certificate 82626 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	6	NW SE	WELL #14 - 1672 FEET NORTH AND 2614 FEET WEST FROM THE SE CORNER OF SECTION 6

17. Transfer Application T-13104 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance for original point of appropriation in miles (mi.)
16 S	42 E	WM	1	SE SE	WELL 1 (NEW) - 1307 FEET NORTH AND 1307 FEET WEST FROM THE SE CORNER OF SECTION 1	0.6 mi.
16 S	43 E	WM	5	SW SW	WELL 5 - 175 FEET NORTH AND 921 FEET EAST FROM THE SW CORNER OF SECTION 5	0.9 mi.
16 S	43 E	WM	6	SE SE	WELL 8 - 712 FEET NORTH AND 413 FEET WEST FROM THE SE CORNER OF SECTION 6	0.6 mi.
16 S	43 E	WM	8	SW NE	WELL 11 - 1525 FEET SOUTH AND 2018 FEET WEST FROM THE NE CORNER OF SECTION 8	1.4 mi.

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

18. 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.
19. 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-13104.
20. The proposed change would not result in enlargement of the rights.
21. The proposed change would not result in injury to other water rights.
22. All other application requirements are met.

## Conclusions of Law

The additional points of appropriation proposed in Transfer Application T-13104 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:

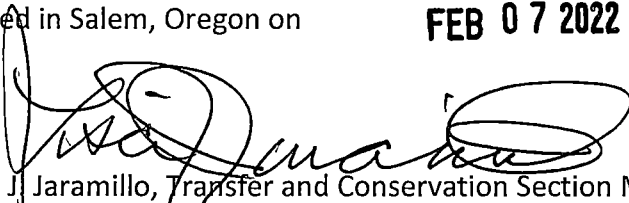
1. The additional points of appropriation proposed in Transfer Application T-13104 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 51777, 51778, 60415, and 82626, and any related decree.
3. Water right Certificates 51777, 51778, 60415, and 82626 are cancelled.
4. The quantity of water, as authorized under Certificate 51777, diverted at the new additional points of appropriation (Well 1 (New), Wells 8, 11, and 14), together with that diverted at the original point of appropriation (Shaffer Well 5), shall not exceed the quantity of water lawfully available at the original point of appropriation (Shaffer Well 5).
5. The quantity of water, as authorized under Certificate 51778, diverted at the new additional points of appropriation (Well 1 (New), Wells 5, 11, and 14), together with that diverted at the original point of appropriation (Shaffer Well 8), shall not exceed the quantity of water lawfully available at the original point of appropriation (Shaffer Well 8).
6. The quantity of water, as authorized under Certificate 60415, diverted at the new additional points of appropriation (Well 1 (New), Wells 5, 8, and 14), together with that diverted at the original point of appropriation (Well 11), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 11).
7. The quantity of water, as authorized under Certificate 82626, diverted at the new additional points of appropriation (Well 1 (New), Wells 5, 8, and 11), together with that diverted at the original point of appropriation (Well #14), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #14).
8. 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.



9. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
10. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. 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.
11. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on

**FEB 07 2022**



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

Mailing date: ~~\_\_\_\_\_~~ **FEB 08 2022**