

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

In the Matter of Transfer Application            )     FINAL ORDER APPROVING A CHANGE IN  
T-13830, Umatilla County                     )     PLACE OF USE

**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**

NEW FOOTHILLS PROPERTIES LLC  
JAY BALES, MANAGER  
PO BOX 189  
ECHO, OR 97826

**Findings of Fact**

1. On September 20, 2021, NEW FOOTHILLS PROPERTIES LLC, JAY BALES, MANAGER, filed an application to change the place of use under Certificate 81319. The Department assigned the application number T-13830.
2. Notice of the application for transfer was published on October 5, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 27, 2022, the Department contacted the agent, requesting a site inspection with the watermaster, specific to the existence of Well 2. On that same day, the agent for the applicant and the Department agreed that Well 2 does not exist.
4. On January 28, 2022, the agent for the applicant submitted revised application tables, removing Well 2 from the transfer 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 February 1, 2022, the agent for the applicant submitted revised maps, removing Well 2 from the transfer maps.
6. On March 29, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13830 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 28, 2022, 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.
7. On June 8, 2022, the Department issued a Preliminary Determination proposing to approve deny Transfer T-13830 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 June 14, 2022, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
8. The portion of the right to be transferred is as follows:

**Certificate:** 81319 in the name of RON HOLEMAN (perfected under Permit G-8369)

**Use:** IRRIGATION of 71.4 ACRES

**Priority Date:** OCTOBER 20, 1978

**Rate:** 0.89 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, 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:** WELLS #1 and #2, within the UMATILLA RIVER basin

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	29 E	WM	21	SE SE	WELL 1 - 720 FEET NORTH AND 530 FEET WEST FROM SE CORNER, SECTION 21

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	29 E	WM	21	NE SW	0.6
3 N	29 E	WM	21	SE SW	4.8
3 N	29 E	WM	21	NW SE	18.8
3 N	29 E	WM	21	SW SE	38.5
3 N	29 E	WM	21	SE SE	7.2
3 N	29 E	WM	28	NW NE	1.5
TOTAL					71.4

9. Transfer Application T-13830 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	29 E	WM	21	NE SW	0.4
3 N	29 E	WM	21	SE SW	2.1
3 N	29 E	WM	21	NW SE	27.5
3 N	29 E	WM	21	SW SE	34.6
3 N	29 E	WM	21	SE SE	6.8
TOTAL					71.4

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

10. Water has been used within the last five years 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 pump, pipeline, and sprinkler 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-13830.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

The change in place of use proposed in Transfer Application T-13830 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

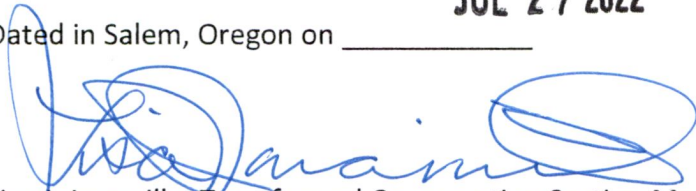
**Now, therefore, it is ORDERED:**

1. The change in place of use proposed in Transfer Application T-13830 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 Certificate 81319, the Stipulated Order for Dismissal with Prejudice, dated June 7, 2004, and any related decree.
3. Water right Certificate 81319 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. 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.
- 5. The former place of use of the transferred right shall no longer receive water under the right.
- 6. 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.
- 7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

**JUL 27 2022**

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



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

Mailing date:           **JUL 28 2022**