

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13543, Morrow and Umatilla Counties)	OF CHANGES IN POINTS OF
)	APPROPRIATION AND CHANGES IN
)	PLACES 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

ROCK SOLID SAND & GRAVEL
C/O WADE AYLETT
74854 W. WASHINGTON LANE
IRRIGON, OR 97844

Findings of Fact

1. On November 5, 2020, ROCK SOLID SAND & GRAVEL C/O WADE AYLETT filed an application to change the points of appropriation and to change the places of use under Certificates 92150 and 89533. The Department assigned the application number T-13543.
2. Notice of the application for transfer was published on November 10, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 6, 2023, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13543 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 6, 2023, 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 November 15, 2023, the Department issued a Preliminary Determination proposing to approve Transfer T-13543 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 November 21, 2023, and in the East Oregonian newspaper on November 18 and 25, 2023, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
5. The portion of the first right to be transferred is as follows:

Certificate: 92150 in the name of CRAIG COLEMAN (perfected under Permit G-10505)
Use: IRRIGATION of 38.2 ACRES
Priority Date: JANUARY 9, 1970
Rate: 0.48 CUBIC FOOT PER SECOND (CFS) FURTHER LIMITED TO 0.05 CFS FROM WELL 3, 0.04 CFS FROM WELL 4, 0.05 CFS FROM WELL 5, 0.07 CFS FROM WELL 6, 0.14 CFS FROM WELL 7, 0.09 CFS FROM WELL 8, 0.01 CFS FROM WELL 9, 0.23 CFS FROM WELL 10, AND 0.09 CFS FROM WELL 11
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 subject to the provisions of the question of determination of a critical ground water area in the ordnance area, Morrow and Umatilla counties, Oregon, by special order recorded at Volume 27, Pages 40 through 79, dated the 2nd day of April 1976.
Source: NINE WELLS IN THE UMATILLA RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	27 E	WM	26	SW NW	WELL # 6 - 1130 FEET NORTH AND 60 FEET EAST FROM THE W1/4 CORNER OF SECTION 26
4 N	27 E	WM	26	SW NW	WELL # 7 - 1130 FEET NORTH AND 60 FEET EAST FROM THE W1/4 CORNER OF SECTION 26
4 N	27 E	WM	26	SW NW	WELL # 8 - 1160 FEET NORTH AND 370 FEET EAST FROM THE W1/4 CORNER OF SECTION 26
4 N	27 E	WM	27	NE NE	WELL # 11 - 1300 FEET SOUTH AND 1215 FEET WEST FROM THE NE CORNER OF SECTION 27
4 N	27 E	WM	27	SW NW	WELL # 10 - 2880 FEET NORTH AND 1310 FEET EAST FROM THE SW CORNER OF SECTION 27
4 N	27 E	WM	27	SW NW	WELL # 4 - 230 FEET NORTH AND 1210 FEET EAST FROM THE W1/4 CORNER OF SECTION 27
4 N	27 E	WM	27	SE NW	WELL # 5 - 960 FEET NORTH AND 1850 FEET EAST FROM THE W1/4 CORNER OF SECTION 27
4 N	27 E	WM	27	SE NW	WELL # 3 - 2740 FEET NORTH AND 1890 FEET EAST FROM THE SW CORNER OF SECTION 27
4 N	27 E	WM	36	SW NW	WELL # 9 - 1884 FEET SOUTH AND 1315 FEET EAST FROM THE NW CORNER OF SECTION 36

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	27	NE NW	10.3
4 N	27 E	WM	27	NW NW	15.2
4 N	27 E	WM	27	SW NW	3.5
4 N	27 E	WM	27	SE NW	9.2
Total					38.2

6. Transfer Application T-13543 proposes to move the authorized points of appropriation approximately between 0.30 and 2.5 miles from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	27 E	WM	28	NE NE	GRAVEL PIT - 1200 FEET SOUTH AND 40 FEET WEST FROM THE NE CORNER OF SECTION 28

7. Transfer Application T-13543 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	27	NW NE	2.1
4 N	27 E	WM	27	SW NE	7.5
4 N	27 E	WM	27	NE NW	9.5
4 N	27 E	WM	27	NW NW	1.1
4 N	27 E	WM	27	SW NW	1.5
4 N	27 E	WM	27	SE NW	16.5
Total					38.2

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

Certificate: 89533 in the name of COUNTY LINE WATER IMPROVEMENT DISTRICT (perfected under Permit G-10836)

Use: SUPPLEMENTAL IRRIGATION of 38.2 ACRES

Priority Date: FEBRUARY 15, 1978

Rate: 0.45 CUBIC FOOT PER SECOND, PROVIDED THE TOTAL QUANTITY APPROPRIATED BY ALL RIGHTS PERFECTED UNDER PERMIT G-10836 DOES NOT EXCEED 60.20 CUBIC FEET PER SECOND, OR ITS EQUIVALENT IN CASE OF ROTATION, MEASURED AT THE WELLS.

THE MAXIMUM ANNUAL APPROPRIATION FOR ALL RIGHTS PERFECTED UNDER PERMIT G-10836 SHALL NOT EXCEED 14649.0 ACRE-Feet OF ARTIFICIALLY AND NATURALLY RECHARGED GROUND WATER OR A LESSER AMOUNT AS HEREIN PROVIDED IN CONDITION 8 (ALLOWABLE USE OF STORED WATER) OF CERTIFICATE 89533.

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 for each acre irrigated during the irrigation season of March 10 to October 15 for each calendar year. This right does not alter the Ordinance Critical Ground Water Area Order.

Period of Use: MARCH 10 TO OCTOBER 15

Source: ARTIFICIALLY RECHARGED GROUND WATER FROM FIVE WELLS IN THE
ORDNANCE CRITICAL GROUND WATER AREA

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	27 E	WM	26	SW NW	COLEMAN (WELL # 8) - 1160 FEET NORTH AND 370 FEET EAST FROM THE W1/4 CORNER OF SECTION 26
4 N	27 E	WM	26	SW NW	COLEMAN (WELL # 7) - 1130 FEET NORTH AND 60 FEET EAST FROM THE W1/4 CORNER OF SECTION 26
4 N	27 E	WM	27	SW NW	COLEMAN (WELL # 4) - 230 FEET NORTH AND 1210 FEET EAST FROM THE W1/4 CORNER OF SECTION 27
4 N	27 E	WM	27	SE NW	COLEMAN (WELL # 3) - 2740 FEET NORTH AND 1890 FEET EAST FROM THE SW CORNER OF SECTION 27
4 N	27 E	WM	27	SE NW	COLEMAN (WELL # 5) - 960 FEET NORTH AND 1850 FEET EAST FROM THE W1/4 CORNER OF SECTION 27 (There are two wells at this location within 20 feet of each other)

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	27	NE NW	10.3
4 N	27 E	WM	27	NW NW	15.2
4 N	27 E	WM	27	SW NW	3.5
4 N	27 E	WM	27	SE NW	9.2
Total					38.2

9. Transfer Application T-13543 proposes to move the authorized points of appropriation approximately between 0.32 and 2.78 miles from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	27 E	WM	28	NE NE	GRAVEL PIT - 1200 FEET SOUTH AND 40 FEET WEST FROM THE NE CORNER OF SECTION 20

10. Transfer Application T-13543 also proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	27	NW NE	2.1
4 N	27 E	WM	27	SW NE	7.5
4 N	27 E	WM	27	NE NW	9.5
4 N	27 E	WM	27	NW NW	1.1
4 N	27 E	WM	27	SW NW	1.5
4 N	27 E	WM	27	SE NW	16.5
Total					38.2

Transfer Review Criteria [OAR 690-380-0100(14), 690-380-4010(2) and OAR 690-380-2110(2)]

11. 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.

12. Water delivery systems 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-13543.
13. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
14. The proposed changes, as conditioned, would not result in enlargement of the rights.
15. The proposed changes, as conditioned, would not result in injury to other water rights.
16. All other application requirements are met.

Conclusions of Law

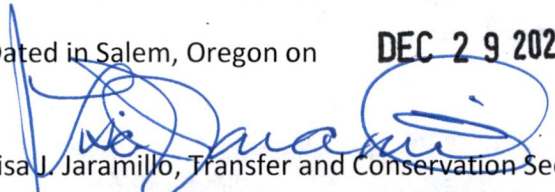
The change in points of appropriation and change in places of use proposed in Transfer Application T-13543 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now therefore, it is ORDERED:

1. The change in points of appropriation and change in places of use proposed in Transfer Application T-13543 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 92150 and 89533, and any related decree.
3. Approval of this transfer application does not constitute nor grant legal access onto or through another person's property for purposes of accessing the new point of appropriation and the new place of use.
4. Water right Certificates 92150 and 89533 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.
5. The quantity of water diverted under the right described by Certificate 92150 at the new point of appropriation (gravel pit) shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 3, 4, 5, 6, 7, 8, 9, 10, and 11).
6. The quantity of water diverted under the right described by Certificate 89533 at the new point of appropriation (gravel pit) shall not exceed the quantity of water lawfully available at the original points of appropriation (Coleman Wells 3, 4, 5, 7, and 8).

7. 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.
8. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
9. The former place of use of the transferred rights shall no longer receive water under the rights.
10. 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.
11. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on **DEC 29 2023**


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

Mailing date: JAN 2 - 2024