

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

In the Matter of Transfer Application)	FINAL ORDER DENYING
T-12903, Harney County)	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. Revisions to the application were made but the report of land ownership and notice of agreement were not received.
4. 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.

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 October 22, 2019, the department received the report of land ownership and notice of agreement. These were not received by the deadline or prior to the Preliminary Determination.

6. 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

7. 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.

8. 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

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	G Lot	Acres	Well
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	

9. 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)

10. 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.
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. As identified in Finding of Fact No. 3 and 5 the transfer application does not meet standards for completeness as per ORS 540.520 and OAR Chapter 690, Division 380.

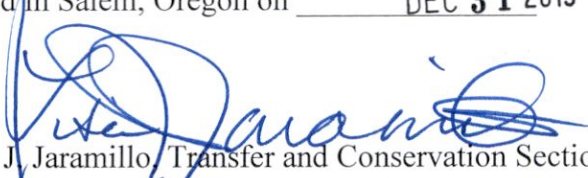
Conclusions of Law

The additional points of appropriation proposed in Transfer Application T-12903 are not 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 denied.

Dated in Salem, Oregon on DEC 31 2019



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

Mailing date: JAN 03 2020