

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12234, Umatilla County	)	PROPOSING APPROVAL OF
	)	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**

SEVEN HILLS PROPERTIES, LLC  
83501 LOWER DRY CREEK RD  
MILTON FREEWATER, OR 97862

**Findings of Fact**

1. On January 6, 2016, SEVEN HILLS PROPERTIES, LLC filed an application for additional points of appropriation under Certificates 86441 and 88639. The Department assigned the application number T-12234.
2. Notice of the application for transfer was published on January 12, 2016, pursuant to OAR 690-380-4000. The following are comments that were filed in response to the notice:
  - a) On February 5, 2016, Nathan Lee submitted the following comment:

“My family lives on Dry Creek and our domestic well runs out of water yearly in the summer. This summer was the worst in years and there was hardly any water from the start of July – thru the end of September. We have to conserve water to survive; we are being mindful of our water situation and have adjusted our habits to fit the changing waterscape. My family of 5 can either take one shower (kids shower together), do one load of laundry or dishes, and from July-September basically cannot water the lawn.

Additionally, I am curious how applications like this would even be considered as the City of Milton-Freewater, OR, put in place restrictions (5 mile proximity to city) for drilling these types of wells a few years ago and the only way Seven

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination
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Hills was able to receive approval for the last wells (same timeframe as city restrictions) was because of their lawyers holding up dates so that their applications could slip through.

I would also like to document the attached pictures I took today February 5, 2016 at lunch time; it clearly shows Seven Hills drilling a well. How can they be doing this without an approved application? This all seems very strange and deceitful since Seven Hills #1 does not have approval and #2 is fully aware and knowingly violating the requirement NOT to drill wells within 5 miles of the city of Milton-Freewater.

Make no mistake I am vigorously opposed to adding another straw to an already excessively taxed water source.”

- b) On February 8, 2016, Gary Key submitted the following comment:

“My name is Gary Key and our farm is directly west of 7 hills vineyard. We have some of the oldest basalt well water rights in the area and we are very concerned about the latest drilling that 7 hills is attempting to get permission to do. During the last 6 years we have observed a consistent 3 to 4 feet annual decline in our static water level. We feel it is a direct result of wells that 7 hills has established for the dryland wheat ground that they put into vineyard, hay, seed beans, seed peas, pumpkins and squash. I would like to ask water resources to deny this latest application for further well drilling. We feel our livelihood would be jeopardized by allowing this valuable resource to be over utilized any further. Thank you for your consideration.”

- c) On February 10, 2016, Rick Piper submitted the following comment:

“My name is Rick Piper, I live on Lower Dry Creek Road about 2 miles South of the drilling site. We have a rock lined hand dug well. It was dug in about 1905 and has supplied water to my place since then.

Since the Seven Hills operation started drilling we have seen a slight drop in the water level. Even though my well is shallow it appears that something is happening to lower the water level.

When the Seven Hills group finished drilling the first wells they let it be known that they had enough water. What has happened? Why do they need more water? There has not been a lot of production change over there in the past 3 or 4 years.

If this new well causes more level loss in my 111 year old well, it will dry up. I wonder if the new well will get shut down. Will I have to drill a new well? Will I be able to get a drilling permit? Will I be inside the 5 mile no drill zone and have to haul water to my place in a tank on a truck? Will I be able to get water from Seven Hills? This could end up causing many wells to have problems all around the Walla Walla Valley.

Does this well at Seven Hills have a permit to be drilled? I am sure it is inside the 5 mile zone. How can it be drilled if it is inside this conservation zone? All of the rest of the farmers on Dry Creek would certainly need a permit to drill for irrigation.



Thank You for giving me and others the time to comment. In closing: I will say that the whole valley's water is being affected by water use and the weather change that is happening. In the future if the water supply goes away, very few of us are going to be in line to buy wine, we will need basic drinking water and where would we get it? And another question will be where we get the water to grow the food to sustain my farm business and water use into the future? Thanks again for the chance to give you my thoughts."

- d) On February 10, 2016, Robert D. Klein submitted the following comment:
- "Dear OWRD: I farm on Schubert Road just West of this project by about a mile and my basalt well has now dropped to half of its production with a full maximizing of my resource. Now Seven Hills is moving another diversion point closer to my highly impacted well including crossing over the Dry Creek Canyon. In the original Go-Below hearings, Seven Hills used the fact that they were not over the Dry Creek Canyon on the west side and that would help prevent interference. My well production loss has had significant financial impacts to my farm and I would like to see the State of Oregon Water Resources step up to the plate and address this issue starting with this point of diversion application. I understand that they cannot use any more water than they have been with existing wells, but adding a well to their system can add to the surge effect on drawdown when they can turn on an additional pump to fill their ponds and run current irrigation. I have random drops of a couple of psi when I am making no changes in my irrigation system that indicates somewhere the static water level is being impacted within the basalt. This has some historical evidence already with the Key well next door as Marvin Key stated several years ago that when the artesian pressure went away that my well had to be shut down for a short period of time in order to fire up their centrifugal pump that they originally installed in their well. Also, who is going to monitor the total quantity and the instantaneous flow rate of all the wells combined? This valley is starting to see a serious loss of water levels and many people are afraid to speak up since certain individuals in the community can carry out very heavy financial impacts to the "smaller water users". I would appreciate a serious OWRD response to this situation! Thanks, Robert Klein."

- e) On February 10, 2016, Andrew Lee submitted the following comment:

"Hello. My name is Andrew Lee. I grew up on Dry Creek and have a family interest in our Lee Century Farm there on Lower Dry Creek Road. I want to oppose the well drilling project currently taking place on Dry Creek by the Seven Hills LLC.

Does anyone understand how critical the water resources on Dry Creek are?? I know the farmers have complained about the continued drilling and water sucking from the Seven Hills wells for the past 9 years. My brother's place – Nathan and Nika Lee – has been losing water supply since Seven Hills began their operation in 2006. Each July through October and once in November, the water levels were so low that their minimum domestic water needs were not met. They could only take one or two showers a day and decide between one load of wash or one dish washer load. It is terrible what has happened to the farmers of

Dry Creek. Most do not have a lot of money to be drilling new wells or extending what they have.

Maybe Seven Hills should compensate everyone on Dry Creek for the damages??? They have not been good neighbors and only think of themselves, how much money they can make and how they can threaten those who have lived in the area for decades. Trust me, it is not good.

Please oppose any further well drilling by Seven Hills and shut down the illegal wells they have already been using. They did not get them the fair way and they never get the permits they need to do what they do in a timely fashion. They wait until the last minute to act and then hope no one notices...they just boldly go without regard for their neighbors and their tough walk in life to make a living farming on Dry Creek.

Please shut them down! Thank you.”

- f) On February 10, 2016, Chuck and Marcia Akes submitted the following comment:

“We were recently made aware of a well being drilled on the property commonly referred to as Seven Hills.

We believe the owners of the property are drilling the well without a permit. The City of Milton-Freewater has a restriction on drilling these types of wells, within a 5 mile radius of the city, without their permission. There is good reason for that as we have a limited water supply and it needs to be monitored for the good of all the farmers and ranchers in this area.

When there was a discussion about the owners of the property drilling a well several years ago, they said they now had all of the water they needed so nobody had to worry.

The drilling of this well could, and more likely will, cause problems with many wells in the area.

We are very upset that the property owners seem to think they can drill a well and not go through the legal steps that everyone else has to go through. Do they think that, as the well is already done, all they might have to do is pay a fine and then they can use the well?

The damage they have done may not be able to be repaired, but we do not think they should be able to gain from so blatantly doing this. We don't know if filling the well back in would help, but someone would know what the best solution would be. We definitely think the property owners should not be allowed to use the well. They did not do this by accident and should not profit from it.

We hope the Water Resources Department will take this situation very seriously and consider the effect this is going to have on the neighboring property owners and beyond. Also – everyone should have to abide by the same rules.

Thank you for your time and consideration in this matter.”



- g) On February 10, 2016, John D. Lee submitted the following comment:

"I wish to raise my opposition to the well drilling being conducted by Seven Hills LLC near Dry Creek, outside of Milton-Freewater, Oregon. This should not take place because local domestic wells are already at critical levels and the loss of ground water from this drilling will most certainly make Dry Creek domestic wells more distressed. We are now forced to drill our domestic well for hopefully more water this summer. A well that has provided domestic and livestock water untouched at this location for more than 140 years. I feel this is more than coincidental to the fact that Seven Hills wells have been drilled in the last 5 or so years. The small farmers and businessmen that depend on their wells for prosperity should be made aware and have a voice in the matter of how limited resources are dispensed."

- h) On February 10, 2016, Deborah Lee submitted the following comment:

"Oregon has been considered the land of plenty....that is why my pioneer ancestors came here on nine different wagon trains from 1847 on, to move towards a life of opportunity and plenty in Oregon. My husband's family is no different. In fact, after the Civil War, the Lee and Bade wagon train families did not move onto the Willamette Valley, instead, they settled in 1867 and 1868 on Dry Creek just south of Milton-Freewater. To them, it was a good place where they could raise their families on land suitable for dryland wheat and raising cattle and other commodities. The land has served the family well and assured them of food and shelter for their family as well as an income. Our family farm will soon celebrate 150 years of operation under one farm family. This is something of which we are very proud.

The Lee land and farming operation has survived over the years; sometimes times have been hard. They survived the Indian Wars, fires, the Great Depression and earthquakes; yet kept a good farm business running with time left over to be supportive community members and volunteers. It has been a happy place to raise generations of family members where there was plenty of rich soil, water for the livestock and draft horses to drink, and good soil next to the house for a farm garden. Until 2006, our life was a good one on the farm.

In 2006, our lives changed. We discovered that out-of-state opportunists had been at work convincing Umatilla and Oregon governmental authorities that a dryland wheat operation – similar to ours – could be developed into a mega farm growing mostly wine grapes on land where there was only Dry Creek and the water under it to support its water supply. At first we did not know this was possible. All of us in EFU areas know that we are protected from development and that it was not even worth asking for an irrigation well...you would never get a permit for an irrigated property in a dryland wheat area as the water supply is fragile.

Much to our amazement and frustration as we dug into this issue, we found that the Seven Hills LLC had maneuvered permits to drill 8 deep basalt wells in a Milton-Freewater Water Conservation District that circles the town for five miles AFTER the City of Milton-Freewater has filed its conservation application. How did an out-of-state business pull strings to do something that



none of the Dry Creek farmers could ever do??? They put the pressure through their lawyers to have the city permitting process held up so that they could slide their applications in before Milton-Freewater's was approved. They also threatened the City of Milton-Freewater that they would sue them if they interfered. This was dirty dealing, disgusting to us honest law abiding land owners and when it happened, it put all of our farming operations at risk because once they started drawing down water from these deep wells, ALL of us living on Dry Creek noted that our water supplies were dwindling from late July on through to October and even into November. This was something new. Up until this time, even in years of drought, we had water.

In January, 2016, several observant farmers on Dry Creek began to spot a gigantic drilling machine being loaded up a high hill to the west of Dry Creek on Seven Hills land. To our dismay, this machine was put into place, lighted and it began drilling 24/7 until they finished just a few days ago. In the process, we have been concerned about apparent run-off down a ravine of some white, thick solvent that has steadily flowed into Dry Creek. Upon checking, we found that there were no permits filed, no EPA variances for the white fluid that was allowed to flow into our precious stream. NOTHING! Did this surprise us? NO, this has been the mode of operation of Seven Hills since they became part of our fragile ecosystem on Dry Creek. They never file for permits, they just do what they want and then do an "AW SHUCKS" once they get caught. Example: The bridge that leads up to their west Dry Creek fields was constructed without ever checking with the Oregon State Bureau of Lands. When the bureau visited the site, they found that the structure was 2 inches too low for water flow during periodic floods on Dry Creek. Seven Hills negotiated and said they would monitor water flows under the bridge in the years ahead and there is no evidence of this action other than the lip service they paid to authorities. Consequently, when that flood does come – and it will – debris will collect under the bridge and the five farm families in the narrow canyon upstream will become flooded at their home sites.

How about this one? In about 2007, the Seven Hills owners and their sons, set up an illegal composting business downstream from the bridge I mentioned on both sides of Dry Creek. They were pouring particulates, lye and other materials into Dry Creek without any kind of protective walls without regard for the water or the neighbors who had to smell the operation and/or had to suffer a crop failure due to the awful white powder that collected on their fruit that was impossible to sell as it was polluted. Thanks to the help of the EPA, eventually after many legal fees were needlessly incurred by Dry Creek farmers to set this straight, this operation was closed down. This is the kind of thing Seven Hills does, so the well business does not surprise us, it only disgusts us.

Recently, our son and family, Nathan and Nika Lee and three sons, moved to Dry Creek thinking that life would be good there to raise a family since we had not heard of anymore monkey business coming from Seven Hills. However, we have been so disappointed to find that their water supply is in serious jeopardy in their well dug over 130 years ago by the family, serving it reliably well through the years. They do not have enough water to fill their horse water trough, they

have to have their sons take group showers and if they do, they cannot run a load of clothes or run their dishwasher. This is not unusual on Dry Creek anymore. Here is a summary of the wells we know of up and down the creek and the trials faced by each farm family:

- Lee Century Farm – Well goes periodically dry starting in July and continues through October and sometimes November. Water pressure is low.
- Onstot farm – no water, they have to haul water for drinking and for fire safety.
- Piper farm – low water pressure, occasional dry well.
- Schroeder farm – Had to drill another domestic well.
- Gatfield farm – Had to drill another well.
- Warnee farm – Low water pressure.
- Dr. Schroeder – Low water pressures.
- Klimes – Low water pressure and low water output.
- Culbertson farm – He will write you.

Knowing that our water supplies in the agricultural areas around Milton-Freewater and Dry Creek are marginal at best and have been seriously curtailed, why would anyone allow a “well hog” like Seven Hills another well within a city water conservation zone or outside of one for that matter? We have been in contact with Umapine area farmers and the wells they use to grow row crops and hay have declined in water pressure and output, and in addition, they have had to go to the expense of extending their wells at huge costs. Many wells are down 25 feet to over 70 feet since Seven Hills began pumping from their mega basalt wells with jet engine pumps. What else do we have to prove that the Seven Hills operation is a neighborhood menace deserving of a well denial and shut down? By their own admission, they have told us all that they have “all the water they need with their 8 wells” “they won’t need any more”. (Three of which have been sold at high prices to other area landowners and they too are now drilling in critical water areas.)

Please register my concerns as a negative towards approval of the permit for an illegal well just dug by Seven Hills! Fine them and tell them to take their business somewhere else! They are bad for the water supply of the Milton-Freewater area and the Walla Walla River Basin, they are polluters of existing water supplies and they are only out for themselves. They don’t care about their neighbors and the inconvenience, expense and stress they cause us. Someone in government needs to stand up for the little guys who have been here for decades being good stewards of the land and trying to make a living the honest way.

Respectfully Submitted,

Deborah Lee”



- i) On February 11, 2016, David Waliser submitted the following comment:

"I live just below Seven Hills Vineyard who have been drilling deep wells to irrigate their vineyards. I am concerned about how these wells are affecting our water supplies.

My address is 52926 County Rd., Milton Freewater, OR 97862. This is a 10 acre farm which helps support my family as well as another family which helps farm the land. We grow cherries, peaches, nectarines, corn, peppers, tomatoes, beets, cabbage, lettuce, potatoes, cantaloupes, melons, squash, and exotic mushrooms. The farm was established and registered in Umatilla County in 1910. My father purchased the farm after he was released from the U.S. Army at the end of World War II having served in North Africa.

I was born and raised on this farm. Until just a few years ago, the property now occupied by Seven Hills Vineyard was dryland wheat. This was an ideal situation for all farmers as the land is high plateau desert. The land was purchased by investors and planted in grapes under the name Seven Hills. They were able to drill wells despite strict water conservation rules; they are now drilling another well without permits. I find this incredible as they are ignoring a moratorium on well drilling. They appear to disregard the rights and needs of farms that have been here over a hundred years and are simply cashing in on the mad rush to plant grapes.

We have a moratorium on well drilling in this area. They do not have a permit. I do not believe what they are doing is legal and is not beneficial to the valley.

Please review this situation and determine if this well is legal. There should be a study on how these deep wells will affect the valley. We are currently in a drought and we simply do not need more stresses on our water supplies."

- j) On February 11, 2016, Vickie Piper submitted the following comment (transcribed electronically by Debbie Lee):

"I live at 81618 Lower Dry Creek Road, Milton-Freewater, Oregon which as a crow flies is about 2½ miles from the town of Milton-Freewater. I have noticed that the 7 Hills Vineyards are putting in another big well. This is interesting because of the 5 mile radius restriction for the town of Milton-Freewater to protect their water. I also understand that the water levels in other deep wells in the area are really starting to drop. The first well that 7 Hills put in several years ago was putting out "all the water they'd ever need because once a vineyard was established it would not need much water." One of the problems of that statement is that after crops that are being produced on that property they do require a lot of water.

So far, by letting our yard dry a little we have not run out of water but our neighbors have been. Why aren't the regulations in place being followed? At what point does our area start conserving the water? I don't believe that one big ole well is the answer."



- k) On February 11, 2016, Gene and Barbara Brown submitted the following comment:

“We are concerned about the water level in our basalt well (UMAT 5027). We do not seem to be getting as much water as we used to get. In 2005 we had the well drilled another 100’ to a depth of 383’. We also put in a larger pump. We would like to be added to the state’s monitor level check routine as soon as possible so there will be a record of our diminishing supply. As a reference, on the state water supply well report dated 10-14-2005 the start card number is W165240 in Umatilla County.

- l) On February 11, 2016, Dot Schroeder submitted the following comment:

“My address is 80556 Steen Road, Milton-Freewater, Oregon 97862. I have just become aware that there is more well drilling at Seven Hills Vineyards on Lower Dry Creek a couple of miles from where I live. We have a well that no longer pumps enough water for the house and the lawn. Three years ago we were able to have all the water we needed. Now if I turn on a hose outside, I run out of water in 10 or 15 minutes. This is not a good trend and drilling more wells down the canyon concerns me – will we lose more water this year?”

3. On February 24, 2016, the Department’s Groundwater Section determined that there is insufficient evidence in the transfer application to make the finding that one of the proposed wells (West Pond Well) will access the same aquifer (same source) as the authorized wells.
4. On March 3, 2016, the Department received information from the applicant’s agent (Kevin Lindsey, GSI Water Solutions) presenting their data and interpretation thereof, that the proposed West Pond Well accesses the same source of groundwater as the authorized wells.
5. On June 14, 2016, The Groundwater Section reviewed the March 3, 2016 well information submitted and found that it was inconclusive as to the determination that the proposed West Pond Well is in the same groundwater source (aquifer) as the authorized wells.
6. On March 22, 2017, EA Engineering, Science, and Technology, Inc., on behalf of the applicant, submitted to the Department an aquifer test report. The test was completed in September of 2016 and conducted at the proposed APOA (West Pond Well), with monitoring of water levels at Well 1 and Well 3 (Wells 4A and 4D, respectively, as designated in T-12234).
7. On April 6, 2017, the Department’s Groundwater Section determined, based upon the information available, that the proposed wells will result in interference with another ground water right. The interference would cause other groundwater rights to not receive water to which they are legally entitled.
8. On May 16, 2017, EA Engineering, Science, and Technology, Inc., on behalf of the applicant, submitted a memo reporting on a distance drawdown assessment. In the memo, the applicant rebuts the April 6, 2017 finding of interference by the Department.
9. On June 15, 2017, the Department’s Groundwater Section reviewed the May 16, 2017, EA report and finds that the proposed wells will not cause other groundwater rights to not

receive water to which they are legally entitled. However, the Department's Groundwater Section also finds, based upon the water level differences with the other wells, that the hydraulic connection between proposed Well 3A and UMAT 50516, Well 4A, Well 4D and West Pond Well is unclear. The Groundwater Section recommended that Well 3A should not be transferred to Certificate 88639 and that West Pond Well should not be authorized as an additional point of appropriation to Well 3A under certificate 86441.

10. On October 6, 2017, the Department emailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-12234 the applicant, the agent and the commenters. The draft Preliminary Determination cover letter set forth a deadline of December 4, 2017, for the applicants to respond.
11. On November 16, 2017, the Department received email correspondence from the applicant requesting to remove Well 3A as an additional point of appropriation from Transfer Application T-12234.
12. On January 10, 2018, EA Engineering, Science, and Technology, Inc., on behalf of the applicant, submitted to the Department proof of ownership and affidavits of consent from all landowners associated with the lands involved in Transfer Application T-12234.
13. On January 16, 2018, EA Engineering, Science, and Technology, Inc., on behalf of the applicant, submitted to the Department amended application pages and maps via email removing Well 3A from the application.
14. The Department reviewed the proposed additional points of appropriation in accordance with ORS 537.705 and 540.530.
15. On March 15, 2018, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12234 to the applicant, the agent, and the commenters. The revised draft Preliminary Determination cover letter set forth a deadline of April 9, 2018, 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.

16. The portion of the first right to be transferred, as amended, is as follows:

**Certificate:** 86441 in the name of SEVEN HILLS PROPERTIES LLC (perfected under Permit G-15883)  
**Use:** IRRIGATION OF 1528.0 ACRES  
**Priority Date:** OCTOBER 8, 2004  
**Rate:** 12.75 CUBIC FEET PER SECOND (CFS) IN ANY COMBINATION, BEING NO MORE THAN 6.7 CFS FROM WELL 4A, 7.8 CFS FROM WELL 4D, AND 1.5 CFS FROM WELL UMAT 50516.  
**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:** March 1 through October 31 of each year

**Sources:** WELL 4A (UMAT 55523), WELL UMAT 50516, AND WELL 4D (UMAT 56382) in the DRY CREEK BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	35 E	WM	4	NE NW	WELL (UMAT 50516) - 930 FEET SOUTH AND 1355 FEET EAST FROM THE NW CORNER OF SECTION 4
5 N	35 E	WM	4	NE SW	WELL 4D (UMAT 56382) - 375 FEET SOUTH AND 940 FEET WEST FROM THE C <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 4
5 N	35 E	WM	4	NE SW	WELL 4A (UMAT 55523) - 415 FEET SOUTH AND 500 FEET WEST FROM THE C <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 4

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	35 E	WM	3	SW NE	5.4
5 N	35 E	WM	3	SE NE	1.0
5 N	35 E	WM	3	SE NW	7.0
5 N	35 E	WM	3	NE SW	38.8
5 N	35 E	WM	3	SE SW	34.7
5 N	35 E	WM	3	NE SE	17.8
5 N	35 E	WM	3	NW SE	35.9
5 N	35 E	WM	3	SW SE	31.2
5 N	35 E	WM	3	SE SE	17.9
5 N	35 E	WM	4	SW NW	25.7
5 N	35 E	WM	4	NE SW	18.9
5 N	35 E	WM	4	NW SW	12.7
5 N	35 E	WM	4	SW SW	27.8
5 N	35 E	WM	4	SE SW	1.5
5 N	35 E	WM	4	NE SE	34.8
5 N	35 E	WM	4	NW SE	36.8
5 N	35 E	WM	4	SW SE	19.2
5 N	35 E	WM	4	SE SE	32.5
5 N	35 E	WM	5	NE NE	25.3
5 N	35 E	WM	5	NW NE	30.7
5 N	35 E	WM	5	SW NE	40.6
5 N	35 E	WM	5	SE NE	26.8
5 N	35 E	WM	5	NE NW	35.4
5 N	35 E	WM	5	NW NW	6.8
5 N	35 E	WM	5	SW NW	9.2
5 N	35 E	WM	5	SE NW	32.8
5 N	35 E	WM	5	NE SW	26.0
5 N	35 E	WM	5	NW SW	12.3
5 N	35 E	WM	5	SW SW	1.3
5 N	35 E	WM	5	SE SW	20.1
5 N	35 E	WM	5	NE SE	36.8
5 N	35 E	WM	5	NW SE	31.4
5 N	35 E	WM	5	SW SE	29.3
5 N	35 E	WM	5	SE SE	31.4
5 N	35 E	WM	8	NE NE	32.4
5 N	35 E	WM	8	NW NE	25.5
5 N	35 E	WM	8	SW NE	33.0
5 N	35 E	WM	8	SE NE	16.5

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	35 E	WM	8	NE NW	31.1
5 N	35 E	WM	8	SE NW	31.3
5 N	35 E	WM	8	NE SW	23.9
5 N	35 E	WM	8	NW SW	4.2
5 N	35 E	WM	8	SW SW	2.3
5 N	35 E	WM	8	SE SW	31.2
5 N	35 E	WM	8	NE SE	13.5
5 N	35 E	WM	8	NW SE	25.7
5 N	35 E	WM	8	SW SE	37.0
5 N	35 E	WM	8	SE SE	36.9
5 N	35 E	WM	9	NE NE	26.8
5 N	35 E	WM	9	NW NE	1.5
5 N	35 E	WM	9	SE NE	9.6
5 N	35 E	WM	9	NE NW	26.2
5 N	35 E	WM	9	NW NW	19.6
5 N	35 E	WM	9	SW NW	20.1
5 N	35 E	WM	9	SE NW	7.9
5 N	35 E	WM	9	NW SW	10.7
5 N	35 E	WM	9	SW SW	2.9
5 N	35 E	WM	10	NE NE	12.8
5 N	35 E	WM	10	NW NE	34.0
5 N	35 E	WM	10	SW NE	39.1
5 N	35 E	WM	10	SE NE	18.3
5 N	35 E	WM	10	NE NW	22.9
5 N	35 E	WM	10	NW NW	29.2
5 N	35 E	WM	10	SW NW	32.0
5 N	35 E	WM	10	SE NW	30.3
5 N	35 E	WM	17	NE NE	1.4
5 N	35 E	WM	17	NW NE	2.1
5 N	35 E	WM	17	NE NW	0.9
6 N	35 E	WM	31	SE SE	15.9
6 N	35 E	WM	32	SW SW	15.5
6 N	35 E	WM	32	SE SW	8.0
Total					1528.0

17. Transfer Application T-12234 proposes an additional point of appropriation in the table below with the approximate distances from the existing points of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from original well location in feet (ft)		
						Well 4A (UMAT 55523)	Well 4D (UMAT 56382)	Well UMAT 50516
5 N	35 E	WM	5	NW SE	WEST POND WELL (UMAT 57714) - 1360 FEET NORTH AND 1575 FEET WEST FROM THE SE CORNER OF SECTION 5	3760	3346	4152

18. To prevent an increased interference with other water rights, well UMAT 57714 shall be limited to a maximum pumping rate of 6.35 cfs.



19. The second right to be transferred, as amended, is as follows:

**Certificate:** 88639 in the name of WALLA WALLA VALLEY APPELLATION, LLC  
(perfected under Permit G-13010)  
**Use:** SUPPLEMENTAL IRRIGATION OF 135.1 ACRES  
**Priority Date:** JANUARY 23, 1996  
**Rate:** 1.50 CUBIC FEET PER SECOND  
**Limit/Duty:** The amount of water used for irrigation under this right, 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.  
**Period of Use:** April 1 through September 30 of each year  
**Source:** WELL 1 in the WALLA WALLA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	35 E	WM	4	NE NW	WELL 1 - 1710 FEET NORTH AND 1285 FEET WEST FROM THE C <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 4

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	35 E	WM	4	NE NW	39.3
5 N	35 E	WM	4	NW NW	30.5
5 N	35 E	WM	4	SE NW	42.0
6 N	35 E	WM	33	SW SW	6.2
6 N	35 E	WM	33	SE SW	17.1
Total					135.1

20. The authorized point of appropriation for Certificate 88639 is also known as UMAT 50516 and is also described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	35 E	WM	4	NE NW	930 FEET SOUTH AND 1355 FEET EAST FROM THE NW CORNER OF SECTION 4

21. Transfer Application T-12234 proposes additional points of appropriation in the table below with the approximate distances from the existing points of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from original well location in feet (ft)
5 N	35 E	WM	4	NE SW	WELL 4A (UMAT 55523) - 415 FEET SOUTH AND 500 FEET WEST FROM THE C <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 4	2258
5 N	35 E	WM	4	NE SW	WELL 4D (UMAT 56382) - 375 FEET SOUTH AND 940 FEET WEST FROM THE C <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 4	2090
5 N	35 E	WM	5	NW SE	WEST POND WELL (UMAT 57714) - 1360 FEET NORTH AND 1575 FEET WEST FROM THE SE CORNER OF SECTION 5	4152

22. To prevent enlargement of Certificate 86441, a limitation must be placed on the total quantity of water diverted when used in combination with any other water right perfected under Permit G-15883. Therefore, the use of water under this right shall include limitation language that the total quantity of water diverted in combination with any other right perfected under Permit G-15883 shall not exceed 16.82 cfs.
23. To further prevent enlargement under this right, the following water use measurement, recording, and reporting conditions shall be included:

Water use measurement, recording, and reporting 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 keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually of more frequently as may be required by the Director. Further, the Director may require the water user to report general water-use information, including the place and nature of use of water under the right.
- (d) 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.

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

24. 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.
25. 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-12234.
26. The proposed change, as conditioned, would not result in enlargement of the rights.
27. The proposed change, as conditioned, would not injure other water rights.
28. All other application requirements are met.

**Determination and Proposed Action**

The additional points of appropriation proposed in Transfer Application T-12234 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

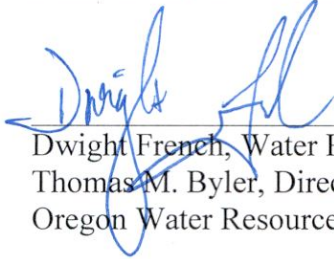


*If Transfer Application T-12234 is approved, the final order will include the following:*

- 1. The additional points of appropriation proposed in Transfer Application T-12234 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 86441 and 88639, and any related decree.*
- 3. Water right Certificates 86441 and 88639 are cancelled. A new certificate will be issued describing that portion of Certificate 86441 not affected by this transfer.*
- 4. The quantity of water diverted at the additional points of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.*
- 5. Water use measurement, recording, and reporting 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 keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually of more frequently as may be required by the Director. Further, the Director may require the water user to report general water-use information, including the place and nature of use of water under the right.*
  - (d) 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.*
- 6. Water shall be acquired from the same aquifer (water source) as the original points of appropriation authorized under each respective water right.*
- 7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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 change and full beneficial use of the water.*

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

Dated at Salem, Oregon this JUL 09 2018



Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

This Preliminary Determination was prepared by Arla Heard. If you have questions about the information in this document, you may reach me at 503-986-0806 or [arla.l.heard@oregon.gov](mailto:arla.l.heard@oregon.gov).

*Protests should be addressed to the attention of Water Rights Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.*

**Notice Regarding Service Members:** Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>