



4. On January 22, 2019, the applicant submitted a revised map, identifying 41.9 acres for transfer, with 5.1 acres remaining.

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

**Certificate:** 54989 in the name of MELVIN WILLIAMSON, ET AL (perfected under Permit S-25683)

**Use:** IRRIGATION of 41.9 ACRES

**Priority Date:** JULY 29, 1958

**Rate:** 0.43 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 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

**Source:** WILLAMETTE RIVER, a tributary of COLUMBIA RIVER

**Authorized Points of Diversion:**

| Twp  | Rng | Mer | Sec | Q-Q   | Glott | Measured Distances |
|------|-----|-----|-----|-------|-------|--------------------|
| 12 S | 4 W | WM  | 19  | NW SE | 6     | POD A - NONE GIVEN |
| 12 S | 4 W | WM  | 19  | SE SE | 6     | POD B - NONE GIVEN |
| 12 S | 4 W | WM  | 30  | NE NE | 10    | POD C - NONE GIVEN |
| 12 S | 4 W | WM  | 30  | SE NE | 9     | POD D - NONE GIVEN |

**Authorized Place of Use:**

| IRRIGATION |     |     |     |       |      |       |
|------------|-----|-----|-----|-------|------|-------|
| Twp        | Rng | Mer | Sec | Q-Q   | GLot | Acres |
| 12 S       | 4 W | WM  | 30  | NE NE | 10   | 8.6   |
| 12 S       | 4 W | WM  | 30  | NW NE |      | 0.8   |
| 12 S       | 4 W | WM  | 30  | SW NE |      | 8.4   |
| 12 S       | 4 W | WM  | 30  | SE NE | 9    | 14.4  |
| 12 S       | 4 W | WM  | 30  | NE SE | 8    | 5.3   |
| 12 S       | 4 W | WM  | 30  | NW SE |      | 4.4   |
| TOTAL      |     |     |     |       |      | 41.9  |

6. Transfer Application T-13066 proposes additional points of diversion with approximate distances from the existing points of diversion identified as follows:

| IRRIGATION |      |     |     |     |       |                 |  |  |
|------------|------|-----|-----|-----|-------|-----------------|--|--|
| APOD #     | Twp  | Rng | Mer | Sec | Q-Q   | GLot or Tax Lot | Measured Distances   | Approximate Distance from Authorized POD's                                   |
| APOD 2     | 12 S | 4 W | WM  | 30  | NE NE | 10              | 50 FEET SOUTH AND 300 FEET WEST FROM THE NE CORNER OF SECTION 30   | POD A – 0.5 mile<br>POD B – 0.1 mile<br>POD C – 0.1 mile<br>POD D – 0.5 mile |
| APOD 1     | 12 S | 4 W | WM  | 30  | SE NE | 201             | 2637 FEET SOUTH AND 740 FEET WEST FROM THE NE CORNER OF SECTION 30 | POD A – 1.0 mile<br>POD B – 0.8 mile<br>POD C – 0.5 mile<br>POD D – 0.1 mile |

7. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

***Transfer Review Criteria [OAR 690-380-4010(2)]***

8. 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.
9. 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-13066.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

**Determination and Proposed Action**

The additional points of diversion proposed in Transfer Application T-13066 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-13066 is approved, the final order will include the following:*

1. *The additional points of diversion proposed in Transfer Application T-13066 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 Certificate 54989 and any related decree.*
3. *Water right Certificate 54989 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The quantity of water diverted at the additional points of diversion (APOD 1 and APOD 2), together with that diverted at the original points of diversion (POD A, POD B, POD C and POD D), shall not exceed the quantity of water lawfully available at the original points of diversion (POD A, POD B, POD C and POD D).*
5. *Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*
6. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2024**. 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.

Dated at Salem, Oregon this FEB 28 2019,



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

This Preliminary Determination was prepared by: Tamera Smith. If you have any questions about the information in this document, you may reach me at 503-986-0898 or [tamera.l.smith@oregon.gov](mailto:tamera.l.smith@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>



**Oregon**  
Kate Brown, Governor

**Water Resources Department**  
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Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

February 28, 2019

VIA E-MAIL

BYLUND KIGER FARMS LLC  
1986 SE POWELLS RD  
CORVALLIS, OR 97333

SUBJECT: Water Right Transfer Application T-13066

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13066. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Eugene Weekly, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0898 or [tamera.l.smith@oregon.gov](mailto:tamera.l.smith@oregon.gov) if I may be of assistance.

Kindest regards,

Tamera Smith  
Transfer Specialist  
Transfer and Conservation Section

cc: T-13066  
Joel M. Plahn, District 16 Watermaster (via e-mail)  
William E. McGill, Agent for the applicant (via e-mail)

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