

5. The right to be transferred is as follows:

Certificate: 21686 in the name of ELDON F. HARGIS; EUGENE D. HARGIS, WANDA L. HARGIS (perfected under Permit S-18675)
Use: IRRIGATION OF 13.6 ACRES
Priority Date: DECEMBER 18, 1945
Rate: 0.34 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-FORTIETH 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 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: OLD RIVER BED (DRY RIVER), tributary to the CROOKED RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	14 E	WM	10	SE NE	none given

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	14 E	WM	11	NW NW	7.9
15 S	14 E	WM	11	SW NW	5.7
Total					13.6

6. Transfer Application T-13032 proposes two new additional points of diversion approximately 7800 feet downstream on Dry River located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	14 E	WM	11	NW NW	APOD #1 - 90 FEET SOUTH AND 440 FEET EAST FROM THE NW CORNER OF SECTION 11
15 S	14 E	WM	11	NW NW	APOD #2 - 180 FEET SOUTH AND 1090 FEET EAST FROM THE NW CORNER OF SECTION 11

7. The source of water described under Certificate 21686 is the Old River Bed, tributary to the Crooked River. The USGS O'Neil Quadrangle and the Department's Deschutes River basin map both show the drainage as the Dry River sub-basin. In addition, Dry River is described in subsequent water rights issued in this reach of the basin. The Department concludes that the source of water should be re-described as Dry River, tributary to Crooked River.

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

8. Water has been used within the five-year period prior to submittal of the transfer application T-13032 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 diversion structure, 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-13032.

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-13032 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-13032 is approved, the final order will include the following:

1. *The additional points of diversion proposed in Transfer Application T-13032 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 21686 and any related decree.*
3. *Water right Certificate 21686 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 proposed additional points of diversion, together with that diverted at the original point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.*
5. *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 diversion (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.*
6. *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 change 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 in Salem, Oregon on JUL 17 2019



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

This draft Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or Ken.D.Dowden@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 servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free number.



Oregon

Kate Brown, Governor

Water Resources Department

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July 10, 2019

Applicant

MAX W MERLICH
14481 SW TWIN LAKES RD
POWELL BUTTE OR 97753

SUBJECT: Water Right Transfer Application T-13032

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13032. 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 Bend Bulletin newspaper, 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 503-986-0886 or Patrick.K.Starnes@oregon.gov if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Program Analyst
Transfer and Conservation Section

cc: Transfer Application file T-13032
Jeremy T. Giffin, District 11 Watermaster *(via e-mail)*
John Short, Agent for the applicant *(via e-mail)*
Linda L. Miller, CWRE #47708 *(via e-mail)*

encs