



**Oregon**  
Kate Brown, Governor

**Water Resources Department**  
725 Summer St NE, Suite A  
Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

September 10, 2019

VIA E-MAIL

THE BUCK FAMILY TRUST  
CAM BUCK  
17728 BUTTEVILLE ROAD NE  
WOODBURN, OR 97071

SUBJECT: Water Right Transfer Application T-13031

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13031. 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 Woodburn Independent 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 [tamera.l.smith@oregon.gov](mailto:tamera.l.smith@oregon.gov), or via telephone at 503-986-0864 if I may be of assistance.

Kindest regards,

Tamera Smith  
Transfer Caseworker  
Transfer and Conservation Section

cc: T-13130  
Eric Anthony Urstadt, Agent for the applicant (*via e-mail*)  
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**BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON**

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-13031, Marion County	)	PROPOSING 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**

THE BUCK FAMILY TRUST  
17728 BUTTEVILLE RD NE  
WOODBURN, OR 97071

**Findings of Fact**

1. On September 20, 2018, The Buck Family Trust filed an application for additional points of appropriation under Certificate 35498. The Department assigned the application number T-13031.
2. On June 3, 2019, The Buck Family Trust amended the original application to request additional points of appropriation.
3. Notice of the application for transfer was published on September 25, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. Notice of the amended application for transfer was published on July 2, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On August 5, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13031 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 5, 2019, 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.
6. On August 16, 2019, the Department requested the agent to send the original notarized Consent by Deeded Landowner, to be added to the application file. It was received on August 27, 2019.

7. The right to be transferred is as follows:

**Certificate:** 35498 in the name of DON'S INC. (perfected under Permit G-3195)

**Use:** IRRIGATION of 290.8 ACRES

**Priority Date:** MARCH 3, 1966

**Rate:** 1.16 CUBIC FEET 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 exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** ONE WELL, tributary of MISSION CREEK

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	10	SW SW	85	2770 FEET NORTH AND 3900 FEET WEST FROM THE MOST SOUTHERLY SE CORNER OF PAPIN DLC 85

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	9	SW NE	85	4.8
4 S	2 W	WM	9	SE NE	85	1.7
4 S	2 W	WM	9	NE SW	84	1.0
4 S	2 W	WM	9	SE SW	84	3.0
4 S	2 W	WM	9	NE SE	84	7.0
4 S	2 W	WM	9	NE SE	85	22.8
4 S	2 W	WM	9	NW SE	85	5.4
4 S	2 W	WM	9	NW SE	84	20.2
4 S	2 W	WM	9	SW SE	84	6.0
4 S	2 W	WM	9	SE SE	85	0.5
4 S	2 W	WM	9	SE SE	84	35.5
4 S	2 W	WM	10	NE SW	85	5.0
4 S	2 W	WM	10	NW SW	85	16.0
4 S	2 W	WM	10	SW SW	85	16.2
4 S	2 W	WM	10	SW SW	84	18.4
4 S	2 W	WM	10	SE SW	84	0.3
4 S	2 W	WM	10	SE SW	85	37.6
4 S	2 W	WM	10	SW SE	85	13.8
4 S	2 W	WM	15	NW NE	85	12.2
4 S	2 W	WM	15	NE NW	84	3.3
4 S	2 W	WM	15	NE NW	85	9.1
4 S	2 W	WM	15	NW NW	84	34.6
4 S	2 W	WM	15	SW NW	84	0.3
4 S	2 W	WM	16	NE NE	84	16.0
4 S	2 W	WM	16	NW NE	84	0.1
TOTAL						290.8

8. Transfer Application T-13031 proposes additional points of appropriation (approximate distances from the existing point of appropriation listed below in feet.):

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Approximate distance from authorized point of appropriation - Well 1
4 S	2 W	WM	9	SE SE	85	WELL 3 - 2790 FEET NORTH AND 3915 FEET WEST FROM THE MOST SOUTHERLY SE CORNER OF PAPIN DLC 85	25 ft. SW
4 S	2 W	WM	15	NE NW	85	WELL 2 - 1486 FEET NORTH AND 2185 FEET WEST FROM THE MOST SOUTHERLY SE CORNER OF PAPIN DLC 85	2064 ft. SE

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

9. 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.
10. 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-13031.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

**Determination and Proposed Action**

The additional points of appropriation proposed in Transfer Application T-13031 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-13031 is approved, the final order will include the following:*

1. *The additional points of appropriation proposed in Transfer Application T-13031 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 35498 and any related decree.*
3. *Water right Certificate 35498 is cancelled.*
4. *Water diverted at the new additional points of appropriation (Well 2 and Well 3), together with that diverted at the original point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 1).*

5. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
6. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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.*

SEP 10 2019

Dated in Salem, Oregon on \_\_\_\_\_



Lisa J. Jaramillo, Transfer and Conservation Section Manager, 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 503-986-0864 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 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.