

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12903, Harney County	)	PROPOSING DENIAL 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**

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. 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

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.

**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

5. 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.

6. 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
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	

7. 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)**

8. 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.

9. The proposed change would not result in enlargement of the rights.
10. The proposed change would not result in injury to other water rights.
11. As identified in Finding of Fact No.3 the transfer application does not meet standards for completeness as per ORS 540.520 and OAR Chapter 690, Division 380.

#### **Determination and Proposed Action**

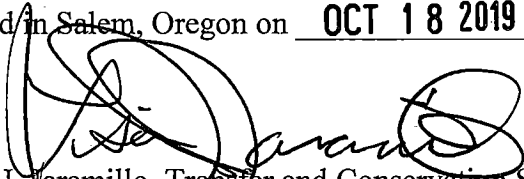
Transfer application T-12903 does not meet the requirements for completeness (as described in Finding of Fact #11), and cannot be approved. The Department intends to deny the application unless the deficiency is remedied, or the application is withdrawn.

*If the deficiencies are remedied and Transfer Application T-12903 is approved, the final order will include the following:*

1. *The additional points of appropriation proposed in Transfer Application T-12903 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 84120 and 89525 and any related decree.*
3. *Water right Certificates 84120 and 89525 are cancelled.*
4. *The quantity of water diverted at the additional points of appropriation (Well 1, New Well and Well 2), together with that diverted at the original point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original points of appropriation (Well 1) under Certificate 84120.*
5. *The quantity of water diverted at the additional points of appropriation (New Well), together with that diverted at the original point of appropriation (Well 1 and Well 2), shall not exceed the quantity of water lawfully available at the original points of appropriation (Well 1 and Well 2) under Certificate 89525.*
6. *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 appropriation (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.*
7. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*

8. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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.*
9. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated in Salem, Oregon on OCT 18 2019



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

This Preliminary Determination was prepared by Scott Grew. If you have questions about the information in this document, you may reach him at 503-986-0890 or [scott.a.grew@oregon.gov](mailto:scott.a.grew@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

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

October 18, 2019

### Applicant

WHITE HEREFORD RANCH, INC.  
31053 EBEN RAY LANE  
BURNS, OR 97720-9338

SUBJECT: Water Right Transfer Application T-12903

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to deny application T-12903. This document is an intermediate step in the process; water may not be used legally as proposed in the transfer application until a Final Order to approve the transfer 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, 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 Department's notice.

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 contact me at [scott.a.grew@oregon.gov](mailto:scott.a.grew@oregon.gov) or 503-986-0890 if I may be of assistance.

Sincerely,

*Scott Grew*

Transfer Specialist

cc: T-12903  
JR Johnson, District 10 Watermaster (via e-mail)  
John A. Short, Agent for the applicant (via e-mail)

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