

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

In the Matter of Transfer Application) **PRELIMINARY DETERMINATION**
T-13024, Union County) **PROPOSING APPROVAL OF A**
) **CHANGE IN 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

RUDD FARMS
ATTN: JANET RUDD
64053 GEKELER LANE
LA GRANDE, OR 97850
booner.rudd@gmail.com

Findings of Fact

1. On September 7, 2018, RUDD FARMS filed an application to change the points of appropriation under Certificates 58342 and 68271. The Department assigned the application number T-13024.
2. Notice of the application for transfer was published on September 18, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 25, 2019, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13024 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 25, 2019, for the applicant to respond. The applicant requested the completion date be extended to October 1, 2024 and for the Department to proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

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.

4. The first right to be transferred is as follows:

Certificate: 58342 in the name of CRESTON J. SHAW (perfected under Permit G-7625)
Use: IRRIGATION of 155.6 ACRES
Priority Date: MAY 27, 1977
Rate: 1.95 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 3.0 acre-feet per acre for each-acre irrigated during the irrigation season of each year.
Source: A WELL within the GRANDE RONDE RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	38 E	WM	12	SW SW	RUDD 1 - 260 FEET NORTH AND 1100 FEET EAST FROM THE SW CORNER OF SECTION 12

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	38 E	WM	12	NE SW	40.0
3 S	38 E	WM	12	NW SW	39.6
3 S	38 E	WM	12	SW SW	37.0
3 S	38 E	WM	12	SE SW	39.0
Total					155.6

5. Transfer Application T-13024 proposes to move the authorized point of appropriation approximately 200 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	38 E	WM	12	SW SW	RUDD 2 - 200 FEET NORTH AND 1280 FEET EAST FROM THE SW CORNER OF SECTION 12

6. The second right to be transferred is as follows:

Certificate: 68271 in the name of PAUL C. RUDD (perfected under Permit G-11021)
Use: IRRIGATION of 141.9 ACRES
Priority Date: FEBRUARY 5, 1990
Rate: 1.77 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.
Source: A WELL within the MULHOLLAND SLOUGH BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	38 E	WM	12	SW SW	RUDD 1 - 260 FEET NORTH AND 1100 FEET EAST FROM THE SW CORNER OF SECTION 12

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	38 E	WM	13	NE NW	32.4
3 S	38 E	WM	13	NW NW	30.4
3 S	38 E	WM	13	SW NW	39.1
3 S	38 E	WM	13	SE NW	40.0
Total					141.9

- Transfer Application T-13024 proposes to move the authorized point of appropriation approximately 200 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	38 E	WM	12	SW SW	RUDD 2 - 200 FEET NORTH AND 1280 FEET EAST FROM THE SW CORNER OF SECTION 12

Transfer Review Criteria (OAR 690-380-4010)

- 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.
- 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-13024.
- The proposed change would not result in enlargement of the rights.
- The proposed change would not result in injury to other water rights.
- All other application requirements are met.

Determination and Proposed Action

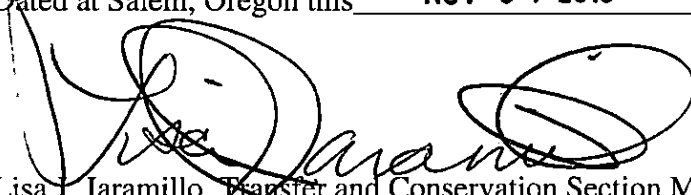
The change in points of appropriation proposed in Transfer Application T-13024 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-13024 is approved, the final order will include the following:

- The change in points of appropriation proposed in Transfer Application T-13024 is approved.*
- 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 58342 and 68271 and any related decree.*

3. *Water right Certificates 58342 and 68271 are cancelled.*
4. *The quantity of water diverted at the new point of appropriation (Rudd 2), shall not exceed the quantity of water lawfully available at the original points of appropriation (Rudd 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, 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, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this NOV 04 2019



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

This Preliminary Determination was prepared by Marcy Osborn, and has now been assigned to Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or corey.a.courchane@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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November 4, 2019

VIA E-MAIL

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64053 GEKELER LANE
LA GRANDE, OR 97850
booner.rudd@gmail.com

SUBJECT: Water Right Transfer Application T-13024

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13024. 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, 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 do not hesitate to contact me, at corey.a.courchane@oregon.gov or (503) 986-0825, if I may be of assistance.

Sincerely,

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-13024
Shad L. Hattan, District 6 Watermaster (*via e-mail*)

encs