

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13050, Marion County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE AND
)	PARTIAL DIMINUTION OF A WATER
)	RIGHT

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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

SIDNEY IRRIGATION COOPERATIVE
PO BOX 736
JEFFERSON, OR 97352

Receiving Landowners

WILL E. MCGILL AND LUCY J. MCGILL
15333 PLETZER RD. SE
TURNER, OR 97392

KENNETH B. GILBERT AND JULIE A. GILBERT
1557 TALBOT RD. SE
JEFFERSON, OR 97352

Findings of Fact

1. On October 26, 2018, SIDNEY IRRIGATION COOPERATIVE filed an application to change the place of use under Certificate 53767. The Department assigned the application number T-13050.
2. Will E. McGill and Lucy J. McGill, and Kenneth B. Gilbert and Julie A. Gilbert are the receiving landowners who will be responsible for completion of the changes.
3. Notice of the application for transfer was published on October 30, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. On October 26, 2018, Santiam Water Control District (District) certified that they consented to the applicant's proposed water right transfer application and maps. Transfer Application T-13050 proposes to transfer a water right within the boundaries of the District.

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.

5. On October 10, 2019, the Department notified the applicant's agent that a portion of the "TO" lands in Sects. 4 and 5, T10S, R2W, WM, would become layered with the lands described by Certificate 23029.
6. On October 15, 2019, the Department received an Affidavit for the Voluntary Partial Diminution of a Water Right Certificate, resolving the deficiency.
7. On October 30, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13050 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 2, 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.
8. On October 31, 2019, the applicant's agent requested to extend the date for complete application of water to full beneficial use to October 1, 2024.
9. The portion of the right to be transferred is as follows:

Certificate: 53767 in the name of SIDNEY IRRIGATION COOPERATIVE (confirmed by North Santiam River (F) Decree)
Use: IRRIGATION of 10.29 ACRES
Priority Date: 1870
Rate: 0.18 CUBIC FOOT PER SECOND
Source: NORTH SANTIAM RIVER, a tributary of SANTIAM RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	2 W	WM	34	SW NE	59	50 FEET NORTH AND 1930 FEET WEST FROM THE E1/4 CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	2 W	WM	33	NE SW	57	9.49
9 S	2 W	WM	33	NW SW	57	0.80
Total						10.29

10. Transfer Application T-13050 proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Receiving landowner
10 S	2 W	WM	4	NW NW	67	1.66	McGill
10 S	2 W	WM	4	NW NW	67	0.34	McGill
10 S	2 W	WM	4	SW NW	67	0.80	McGill
10 S	2 W	WM	5	NE NE	67	1.15	McGill
10 S	2 W	WM	5	SE NE	67	1.01	McGill
10 S	2 W	WM	5	SE NE	67	3.33	McGill
9 S	3 W	WM	35	SW SW		0.40	Gilbert
9 S	3 W	WM	35	SW SW		1.60	Gilbert
Total						10.29	

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

- 11. 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.
- 12. 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-13050.
- 13. The proposed change would not result in enlargement of the right.
- 14. The proposed change would not result in injury to other water rights.
- 15. All other application requirements are met.

Partial Diminution of a Water Right

- 16. On October 15, 2019, the applicant’s agent submitted an Affidavit for the Voluntary Partial Diminution of a Water Right Certificate from Lucy J. McGill Living Trust, dated March 20, 2014. The portion of the water right to be diminished is as follows:

Certificate: 23029 in the name of Louis E. Peterson (perfected under Permit S-20335)
Use: Irrigation of 7.29 acres
Priority Date: May 11, 1951
Rate: 0.09 cubic foot per second
Source: Marion Creek, a tributary of North Santiam River

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC
10 S	2 W	WM	5	NE NE	67
10 S	2 W	WM	5	SE NE	67

Authorized Place of Use to be Diminished:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	2 W	WM	4	NW NW	1.40
10 S	2 W	WM	4	SW NW	0.40
10 S	2 W	WM	5	NE NE	1.15
10 S	2 W	WM	5	SE NE	4.34
Total					7.29

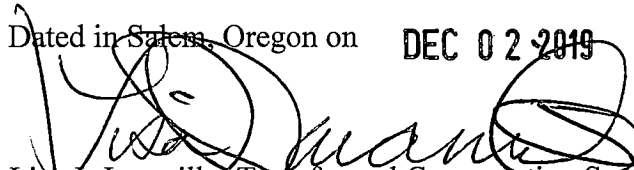
Determination and Proposed Action

The change in place of use proposed in Transfer Application T-13050 appears 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-13050 is approved, the final order will include the following:

- 1. The change in place of use proposed in Transfer Application T-13050 is 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 53767 and any related decree.*
- 3. Water right Certificates 23029 and 53767 are cancelled. A new certificate will be issued describing that portion of the right described by Certificate 53767 not affected by this transfer.*
- 4. Certificate 94705 will be issued to describe that portion of Certificate 23029 being diminished.*
- 5. The former place of use of the transferred right shall no longer receive water under the right.*
- 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 change and full beneficial use of the water.*
- 7. After satisfactory proof of beneficial use is received, a new certificate in the name of Sidney Irrigation Cooperative confirming the right transferred will be issued.*

Dated in Salem, Oregon on **DEC 02 2019**


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

This Preliminary Determination was prepared by 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 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

December 2, 2019

SIDNEY IRRIGATION COOPERATIVE
PO BOX 736
JEFFERSON, OR 97352

SUBJECT: Water Right Transfer Application T-13050

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13050. 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-13050
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
William E. McGill, Agent for the applicant (*via e-mail*)
Will E. McGill and Lucy J. McGill, Receiving Landowner
Kenneth B. Gilbert and Julie A. Gilbert, Receiving Landowner
Santiam Water Control District

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