

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-13038, Malheur County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACE OF USE

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

JONATHAN M. AND LACY A. BLAKE
3251 RUSSELL RD
VALE, OR 97918
blakejm26@msn.com

Findings of Fact

1. On October 1, 2018, JONATHAN M. AND LACY A. BLAKE filed an application to change the place of use under Certificate 82594. The Department assigned the application number T-13038.
2. Notice of the application for transfer was published on October 9, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 27, 2018, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13038 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of January 28, 2019, for the applicants to respond. The applicants requested the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are 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.
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4. The portion of the right to be transferred is as follows:

Certificate: 82594 in the name of BRIAN AND JAN M CARMICHAEL AND NORTHWEST FARM CREDIT SERVICES FLCA (perfected under Permit G-7152)

Use: IRRIGATION OF 131.5 ACRES

Priority Date: JANUARY 26, 1977

Rate: 0.62 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 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.

Source: WELL #1 within the MALHEUR BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
19 S	44 E	WM	22	NE SW	WELL #1 - 3400 FEET SOUTH AND 1540 FEET EAST FROM THE NW CORNER OF SECTION 22

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
19 S	44 E	WM	22	NE SW	10.2
19 S	44 E	WM	22	NW SW	8.9
19 S	44 E	WM	22	SW SW	36.6
19 S	44 E	WM	22	SE SW	39.0
19 S	44 E	WM	22	SW SE	1.1
19 S	44 E	WM	27	NE NW	18.6
19 S	44 E	WM	27	NW NW	17.1
Total					131.5

5. Transfer Application T-13038 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
19 S	44 E	WM	22	NE SW	14.4
19 S	44 E	WM	22	NW SW	7.6
19 S	44 E	WM	22	SW SW	32.6
19 S	44 E	WM	22	SE SW	31.2
19 S	44 E	WM	22	NW SE	27.9
19 S	44 E	WM	22	SW SE	4.0
19 S	44 E	WM	27	NE NW	6.5
19 S	44 E	WM	27	NW NW	7.3
Total					131.5

Transfer Review Criteria (OAR 690-380-4010)

6. 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.
7. 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-13038.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.
10. All other application requirements are met.

Determination and Proposed Action

The change in place of use proposed in Transfer Application T-13038 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.

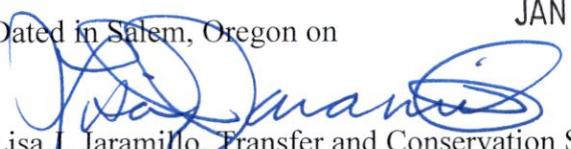
If Transfer Application T-13038 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-13038 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 82594 and any related decree.*
3. *Water right Certificate 82594 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The former place of use of the transferred right shall no longer receive water under the right.*
5. *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 change and full beneficial use of the water.*

6. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on

JAN 23 2020


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

This Preliminary Determination was prepared by Kelly Starnes. If you have questions about the information in this document, you may reach me at 503-986-0866 or patrick.k.starnes@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

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January 22, 2020

VIA E-MAIL

JONATHAN M. AND LACY A. BLAKE
3251 RUSSELL RD
VALE, OR 97918
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SUBJECT: Water Right Transfer Application T-13038

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13038. 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 503-986-0866 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-13038
Ronald K. Jacobs, District 9 Watermaster (via e-mail)
Nancy Rorick, Agent for the applicant (via e-mail)

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