

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

In the Matter of Transfer Application)
T-13176, Crook County)
)
) **PRELIMINARY DETERMINATION
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

CITY OF PRINEVILLE
ATTN: ERIC KLANN
387 NE 3RD ST
PRINEVILLE, OR 97754

Findings of Fact

1. On May 3, 2019, CITY OF PRINEVILLE filed an application to change the points of appropriation under Certificates 22839, 83993, 86889, 86337, 15539 and 86558. The Department assigned the application number T-13176.
2. Notice of the application for transfer was published on May 14, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 28, 2019, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13176 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 27, 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.
4. The portion of the first right to be transferred is as follows:
Certificate: 22839 in the name of PACIFIC POWER AND LIGHT CO. (perfected under Permit U-215)
Use: MUNICIPAL SUPPLY
Priority Date: JUNE 17, 1947

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.

Rate: 0.31 CUBIC FOOT PER SECOND
Source: A WELL

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q
14 S	16 E	WM	31	SW SE

Authorized Place of Use:

MUNICIPAL SUPPLY				
Twp	Rng	Mer	Sec	Q-Q
14 S	16 E	WM	31	NE SE
14 S	16 E	WM	31	NW SE
14 S	16 E	WM	31	SW SE
14 S	16 E	WM	31	SE SE
14 S	16 E	WM	32	NE SW
14 S	16 E	WM	32	NW SW
14 S	16 E	WM	32	SW SW
14 S	16 E	WM	32	SE SW
15 S	16 E	WM	5	NW NE
15 S	16 E	WM	5	SW NE
15 S	16 E	WM	5	NE NW
15 S	16 E	WM	5	NW NW
15 S	16 E	WM	5	SW NW
15 S	16 E	WM	5	SE NW
15 S	16 E	WM	6	NE NE
15 S	16 E	WM	6	NW NE
15 S	16 E	WM	6	SE NE

5. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 22839 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	16 E	WM	31	SW SE	YANCEY WELL 1 - 1070 FEET NORTH 55 DEGREES EAST FROM THE SOUTH 1/4 CORNER OF SECTION 31

6. Transfer Application T-13176 proposes to move the authorized point of appropriation approximately 0.5 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	16 E	WM	31	SW SE	YANCEY WELL 2 - 613 FEET NORTH AND 1730 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 31

7. The portion of the second right to be transferred is as follows:

Certificate: 83993 in the name of CITY OF PRINEVILLE (perfected under Permit G-9154)
Use: MUNICIPAL USE
Priority Date: OCTOBER 5, 1973
Rate: 0.21 CUBIC FEET PER SECOND (CFS), IN ANY COMBINATION FROM THE TWO WELLS, AND IS FURTHER LIMITED TO A

MAXIMUM OF 0.21 CFS FROM STEARNS WELL #2 OR 0.21 CFS FROM BARNEY WELL

Source: STEARNS WELL #2 AND BARNEY WELL IN THE OCHOCO CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	16 E	WM	4	SW NE	STEARNS WELL #2 (ORIGINAL WELL) - 1810.2 FEET SOUTH AND 1151.5 FEET EAST FROM THE N1/4 CORNER OF SECTION 4
15 S	16 E	WM	4	NE NE	BARNEY WELL (ADDITIONAL WELL) - 1315 FEET SOUTH AND 1370 FEET EAST FROM THE N1/4 CORNER OF SECTION 4

Authorized Place of Use:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
14 S	16 E	WM	31	SW NE
14 S	16 E	WM	31	NE NW
14 S	16 E	WM	31	NW NW
14 S	16 E	WM	31	SE NW
14 S	16 E	WM	31	SE SW
14 S	16 E	WM	31	NE SE
14 S	16 E	WM	31	NW SE
14 S	16 E	WM	31	SW SE
14 S	16 E	WM	31	SE SE
14 S	16 E	WM	32	SW NW
14 S	16 E	WM	32	NE SW
14 S	16 E	WM	32	NW SW
14 S	16 E	WM	32	SW SW
14 S	16 E	WM	32	SE SW
14 S	16 E	WM	32	NW SE
14 S	16 E	WM	32	SW SE
15 S	16 E	WM	3	NW NW
15 S	16 E	WM	4	NW NE
15 S	16 E	WM	4	SW NE
15 S	16 E	WM	4	NE NW
15 S	16 E	WM	4	NW NW
15 S	16 E	WM	4	SW NW
15 S	16 E	WM	5	NE NE
15 S	16 E	WM	5	NW NE
15 S	16 E	WM	5	SW NE
15 S	16 E	WM	5	SE NE
15 S	16 E	WM	5	NE NW
15 S	16 E	WM	5	NW NW
15 S	16 E	WM	5	SW NW
15 S	16 E	WM	5	SE NW
15 S	16 E	WM	5	NE SW
15 S	16 E	WM	5	NW SW
15 S	16 E	WM	5	NW SE
15 S	16 E	WM	6	NE NE
15 S	16 E	WM	6	NW NE

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
15 S	16 E	WM	6	SE NE
15 S	16 E	WM	6	NE NW
15 S	16 E	WM	6	SE NW
15 S	16 E	WM	6	NE SE

8. Transfer Application T-13176 proposes to move the authorized points of appropriation approximately 1.8 miles from both existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	16 E	WM	31	SW SE	YANCEY WELL 2 - 613 FEET NORTH AND 1,730 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 31

9. The portion the third right to be transferred is as follows:

Certificate: 86889 in the name of CITY OF PRINEVILLE (perfected under Permit U-372)
Use: MUNICIPAL USE
Priority Date: DECEMBER 8, 1950
Rate: 0.32 CUBIC FOOT PER SECOND
Source: A WELL

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	16 E	WM	5	SW NW	(4TH STREET DEEP WELL) - 375 FEET NORTH AND 370 FEET EAST FROM THE W1/4 CORNER OF SECTION 5

Authorized Place of Use:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
14 S	16 E	WM	31	NE SE
14 S	16 E	WM	31	NW SE
14 S	16 E	WM	31	SW SE
14 S	16 E	WM	31	SE SE
14 S	16 E	WM	32	NE SW
14 S	16 E	WM	32	NW SW
14 S	16 E	WM	32	SW SW
14 S	16 E	WM	32	SE SW
14 S	16 E	WM	32	NW SE
14 S	16 E	WM	32	SW SE
15 S	16 E	WM	5	NW NE
15 S	16 E	WM	5	SW NE
15 S	16 E	WM	5	NE NW
15 S	16 E	WM	5	NW NW
15 S	16 E	WM	5	SW NW
15 S	16 E	WM	5	SE NW
15 S	16 E	WM	6	NE NE
15 S	16 E	WM	6	NW NE
15 S	16 E	WM	6	SE NE

10. Transfer Application T-13176 proposes to move the authorized point of appropriation approximately 0.7 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	16 E	WM	31	SW SE	YANCEY WELL 2 - 613 FEET NORTH AND 1730 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 31

11. The portion of the fourth right to be transferred is as follows:

Certificate: 86337 in the name of CITY OF PRINEVILLE (perfected under Permit G-506)
Use: MUNICIPAL USE
Priority Date: APRIL 5, 1957
Rate: 0.26 CUBIC FOOT PER SECOND
Source: LaMONTA WELL within the OCHOCO CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	16 E	WM	31	NW NW	LaMONTA WELL - SOUTH 58 DEGREES 13 MINUTES EAST, 1447 FEET FROM THE NW CORNER OF SECTION 31

Authorized Place of Use:

MUNICIPAL USE					
Twp	Rng	Mer	Sec	Q-Q	GLot
14 S	16 E	WM	31	NE SE	
14 S	16 E	WM	31	NW SE	
14 S	16 E	WM	31	SW SE	
14 S	16 E	WM	31	SE SE	
14 S	16 E	WM	32	NE SW	
14 S	16 E	WM	32	NW SW	
14 S	16 E	WM	32	SW SW	
14 S	16 E	WM	32	SE SW	
15 S	16 E	WM	5	NW NE	2
15 S	16 E	WM	5	SW NE	
15 S	16 E	WM	5	NE NW	3
15 S	16 E	WM	5	NW NW	4
15 S	16 E	WM	6	NE NE	1
15 S	16 E	WM	6	NW NE	2
15 S	16 E	WM	6	SE NE	

12. Transfer Application T-13176 proposes to move the authorized point of appropriation 0.8 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	16 E	WM	31	SW SE	YANCEY WELL 2 - 613 FEET NORTH AND 1730 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 31

13. The fifth right to be transferred is as follows:

Certificate: 15539 in the name of CITY OF PRINEVILLE (perfected under Permit U-133)
Use: USE OF CITY OWNED RAILWAY AND MUNICIPAL USE, INCLUDING SWIMMING POOL, FIRE PROTECTION, AND STREET SPRINKLING
Priority Date: MAY 16, 1941
Rate: 0.10 CUBIC FOOT PER SECOND
Source: A WELL

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q
14 S	16 E	WM	31	NE SE

Authorized Place of Use:

USE OF CITY OWNED RAILWAY AND MUNICIPAL USE, INCLUDING SWIMMING POOL, FIRE PROTECTION AND STREET SPRINKLING				
Twp	Rng	Mer	Sec	Q-Q
14 S	16 E	WM	31	NE SE
14 S	16 E	WM	31	NW SE
14 S	16 E	WM	31	SW SE
14 S	16 E	WM	31	SE SE
14 S	16 E	WM	32	NE SW
14 S	16 E	WM	32	SW SW
14 S	16 E	WM	32	SE SW
15 S	16 E	WM	5	NE NW
15 S	16 E	WM	5	NW NW
15 S	16 E	WM	5	SW NW
15 S	16 E	WM	5	SE NW
15 S	16 E	WM	6	NE NE
15 S	16 E	WM	6	NW NE
15 S	16 E	WM	6	SE NE

14. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 15539 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	16 E	WM	31	NE SE	10TH STREET WELL – 1865 FEET NORTH AND 630 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 31

15. Transfer Application T-13176 proposes to move the authorized point of appropriation approximately 0.3 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	16 E	WM	31	SW SE	YANCEY WELL 2 - 613 FEET NORTH AND 1730 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 31

16. The portion of the sixth right to be transferred is as follows:

Certificate: 86558 in the name of CITY OF PRINEVILLE (perfected under Permit U-140)
Use: MUNICIPAL USE
Priority Date: MAY 20, 1942
Rate: 0.14 CUBIC FOOT PER SECOND
Source: A WELL (OCHOCO HEIGHTS WELL NO. 1)

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q
14 S	16 E	WM	32	NW SW

Authorized Place of Use:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
14 S	16 E	WM	31	NE SE
14 S	16 E	WM	31	NW SE
14 S	16 E	WM	31	SW SE
14 S	16 E	WM	31	SE SE
14 S	16 E	WM	32	NE SW
14 S	16 E	WM	32	NW SW
14 S	16 E	WM	32	SW SW
14 S	16 E	WM	32	SE SW
15 S	16 E	WM	5	NE NW
15 S	16 E	WM	5	NW NW
15 S	16 E	WM	5	SW NW
15 S	16 E	WM	5	SE NW
15 S	16 E	WM	5	NE SW
15 S	16 E	WM	5	NW SW
15 S	16 E	WM	6	NE NE
15 S	16 E	WM	6	NW NE
15 S	16 E	WM	6	SE NE

17. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 86558 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	16 E	WM	32	NW SW	OCHOCO HEIGHTS WELL NO. 1 - 1711 FEET NORTH AND 650 FEET EAST FROM THE SOUTHWEST CORNER OF SECTION 32

18. Transfer Application T-13176 proposes to move the authorized point of appropriation approximately 0.5 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	16 E	WM	31	SW SE	YANCEY WELL 2 - 613 FEET NORTH AND 1730 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 31

Transfer Review Criteria (OAR 690-380-4010)

19. Municipal water rights are not subject to forfeiture under ORS 540.610.

20. A pump and pipeline 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-13176.
21. The proposed changes would not result in enlargement of the rights.
22. The proposed changes would not result in injury to other water rights.
23. All other application requirements are met.

Determination and Proposed Action

The change in points of appropriation proposed in Transfer Application T-13176 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.

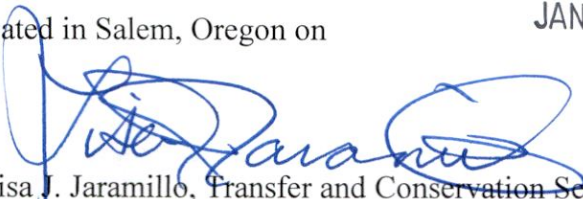
If Transfer Application T-13176 is approved, the final order will include the following:

1. *The change in points of appropriation proposed in Transfer Application T-13176 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 22839, 83993, 86889, 86337, 15539, 86558 and any related decree.*
3. *Water right Certificates 22839, 83993, 86889, 86337, 15539, 86558 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
4. *The quantity of water diverted under the right described by Certificate 22839 at the new point of appropriation (Yancey Well 2), shall not exceed the quantity of water lawfully available at the original points of appropriation (Yancey Well 1).*
5. *The quantity of water diverted under the right described by Certificate 83993 at the new point of appropriation (Yancey Well 2), shall not exceed the quantity of water lawfully available at the original points of appropriation (Stearns Well #2 and Barney Well).*
6. *The quantity of water diverted under the right described by Certificate 86889 at the new point of appropriation (Yancey Well 2), shall not exceed the quantity of water lawfully available at the original points of appropriation (4th Street Deep Well).*
7. *The quantity of water diverted under the right described by Certificate 86337 at the new point of appropriation (Yancey Well 2), shall not exceed the quantity of water lawfully available at the original points of appropriation (LaMonta Well).*
8. *The quantity of water diverted under the right described by Certificate 15539 at the new point of appropriation (Yancey Well 2), shall not exceed the quantity of water lawfully available at the original points of appropriation (10th Street Well).*

9. *The quantity of water diverted under the right described by Certificate 86558 at the new point of appropriation (Yancey Well 2), shall not exceed the quantity of water lawfully available at the original points of appropriation (Ochoco Heights Well No. 1).*
10. *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 new point of appropriation.*
 - 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.*
11. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
12. *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 changes and full beneficial use of the water.*
13. *After satisfactory proof of beneficial use is received, new certificates confirming the rights 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 Scott Grew. If you have questions about the information in this document, you may reach him at scott.a.grew@oregon.gov or 503-986-0890.

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

January 23, 2020

Applicant

CITY OF PRINEVILLE
ATTN: ERIC KLANN
387 NE 3RD ST
PRINEVILLE, OR 97754

SUBJECT: Water Right Transfer Application T-13176

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13176. 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 Central Oregonian 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 contact me at scott.a.grew@oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Scott Grew

Transfer Specialist

cc: T-13176
Jeremy T. Giffin, District 11 Watermaster (*via e-mail*)
Adam Sussman, GSI Water Solutions, Agent for the applicant (*via e-mail*)

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