

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13055, Yamhill County)	PROPOSING APPROVAL OF AN
)	ADDITIONAL POINT 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

WILLAMETTE VALLEY LAND, LLC
C/O PAUL KUEHNE
PO BOX 99
LAFAYETTE, OR 97127

Findings of Fact

1. On November 1, 2018, WILLAMETTE VALLEY LAND, LLC, C/O PAUL KUEHNE filed an application for an additional point of appropriation under Certificates 39550 and 39557. The Department assigned the application number T-13055.
2. Notice of the application for transfer was published on November 6, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 3, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13055 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 6, 2020, 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.

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 first right to be transferred is as follows:

Certificate: 39550 in the name of MARSHAL H. CAIN (perfected under Permit G-3348)
Use: IRRIGATION of 39.2 ACRES
Priority Date: APRIL 6, 1967
Rate: 0.29 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, 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year,
Source: A WELL, a tributary of SALT CREEK (SOUTH YAMHILL RIVER)

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	4 W	WM	18	NW NW	65	WELL #1 - 30 FEET NORTH AND 930 FEET EAST FROM THE NE CORNER OF DLC 66

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	4 W	WM	7	SW SW	65	10.0
5 S	4 W	WM	7	SE SW	65	0.6
5 S	4 W	WM	18	NE NW	65	1.5
5 S	4 W	WM	18	NW NW	65	27.1
Total						39.2

5. Transfer Application T-13055 proposes an additional point of appropriation approximately 1019.6 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	4 W	WM	7	SE SW	65	PARADISE WELL 1 - 320 FEET NORTH FROM THE SE CORNER OF THE SWSW OF SECTION 7

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

Certificate: 39557 in the name of MARSHAL H. CAIN (perfected under Permit G-4166)
Use: IRRIGATION of 49.8 ACRES
Priority Date: MAY 29, 1968
Rate: 0.20 CUBIC FOOT PER SECOND FROM WELL #1
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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year; provided further that the right allowed herein shall be

limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

Source: ONE WELL a tributary of SALT CREEK (YAMHILL RIVER)

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	4 W	WM	18	NW NW	65	WELL #1 - 30 FEET NORTH AND 930 FEET EAST FROM THE NE CORNER OF DLC 66

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
5 S	4 W	WM	7	SW SW		65	1.0
5 S	4 W	WM	7	SE SW	5		1.8
5 S	4 W	WM	7	SE SW		65	3.0
5 S	4 W	WM	7	SE SW		43	4.2
5 S	4 W	WM	18	NE NW	3		4.5
5 S	4 W	WM	18	NE NW		65	7.7
5 S	4 W	WM	18	NE NW		43	8.4
5 S	4 W	WM	18	NW NW		65	2.7
5 S	5 W	WM	12	SE SE		74	4.4
5 S	5 W	WM	13	NE NE		74	12.1
Total							49.8

- Transfer Application T-13055 proposes an additional point of appropriation approximately 1019.6 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	4 W	WM	7	SE SW	65	PARADISE WELL 1 - 320 FEET NORTH FROM THE SE CORNER OF THE SWSW CORNER OF SECTION 7

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-13055.
- 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 additional point of appropriation proposed in Transfer Application T-13055 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-13055 is approved, the final order will include the following:

- 1. The additional point of appropriation proposed in Transfer Application T-13055 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 Certificates 39550 and 39557, and any related decree.*
- 3. Water right Certificates 39550 and 39557 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
- 4. The quantity of water diverted at the new additional point of appropriation (Paradise Well 1), together with that diverted at the original points of appropriation (Well #1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #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, 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.*

7. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated in Salem, Oregon on FEB 03 2020



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

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Salem, OR 97301

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February 3, 2020

WILLAMETTE VALLEY LAND, LLC
C/O PAUL KUEHNE
PO BOX 99
LAFAYETTE, OR 97127

SUBJECT: Water Right Transfer Application T-13055

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13055. 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-13055
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
Aspen Rural Land Consulting, Agent for the applicant (*via e-mail*)

encs