

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13164, Morrow and Umatilla Counties)	PROPOSING APPROVAL OF
)	ADDITIONAL 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

12 H, INC
c/o TYLER HANSELL
75858 COLONEL JORDAN RD
HERMISTON, OR 97838

Findings of Fact

1. On April 8, 2019, 12H INC. c/o Tyler Hansell filed an application for additional points of appropriation under Certificates 68706, 68707, 68708, 60709, 68710, 68711, and 82599. The Department assigned the application number T-13164.
2. Notice of the application for transfer was published on April 16, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 30, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13164 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 30, 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 first right to be transferred is as follows:
Certificate: 68706 in the name of 12H, INC.; COREY, BYLER, REW, LORENZEN AND HOJEM (perfected under Permit G-2822)
Use: IRRIGATION of 393.3 ACRES
Priority Date: APRIL 10, 1964
Rate: 4.82 CUBIC FEET PER SECOND

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.

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 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: HANSEL WELLS 1, 2, 3, AND 4, within the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	27 E	WM	28	SW NE	WELL 1- 3180 FEET NORTH AND 1470 FEET WEST FROM THE SE CORNER OF SECTION 28
4 N	27 E	WM	28	SW SE	WELL 2- 20 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER OF SECTION 28
4 N	27 E	WM	33	NW NE	WELL 3- 1270 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 33
4 N	27 E	WM	33	SW NE	WELL 4- 1940 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	33	NE NE	12.05
4 N	27 E	WM	33	NW NE	12.00
4 N	27 E	WM	33	SW NE	12.00
4 N	27 E	WM	33	SE NE	12.05
4 N	27 E	WM	33	NE NW	7.70
4 N	27 E	WM	33	NW NW	7.70
4 N	27 E	WM	33	SW NW	7.70
4 N	27 E	WM	33	SE NW	7.70
4 N	27 E	WM	34	NE NW	27.30
4 N	27 E	WM	34	NW NW	3.60
4 N	27 E	WM	34	SW NW	1.30
4 N	27 E	WM	34	SE NW	26.60
4 N	27 E	WM	34	NE SW	32.50
4 N	27 E	WM	34	NW SW	30.20
4 N	27 E	WM	34	SW SW	30.80
4 N	27 E	WM	34	SE SW	32.60
4 N	27 E	WM	34	NE SE	32.30
4 N	27 E	WM	34	NW SE	32.40
4 N	27 E	WM	34	SW SE	32.40
4 N	27 E	WM	34	SE SE	32.40
Total					393.3

5. Transfer Application T-13164 proposes an additional point of appropriation approximately 0.4 mile from the existing points of appropriation to:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
New Well 4	4 N	27 E	WM	33	NW NE	290 FEET SOUTH AND 2330 FEET WEST FROM THE NE CORNER OF SECTION 28

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

Certificate: 68707 in the name of 12H, INC.; COREY, BYLER, REW, LORENZEN AND HOJEM (perfected under Permit G-1069)
Use: IRRIGATION of 76.2 ACRES
Priority Date: AUGUST 28, 1958
Rate: 0.95 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 a diversion of 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: WELLS 1, 2, 3, and 4 within the UMATILLA BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	27 E	WM	28	SW NE	WELL 1- 3180 FEET NORTH AND 1470 FEET WEST FROM THE SE CORNER OF SECTION 28
4 N	27 E	WM	28	SW SE	WELL 2- 20 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER OF SECTION 28
4 N	27 E	WM	33	NW NE	WELL 3- 1270 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 33
4 N	27 E	WM	33	SW NE	WELL 4- 1940 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	33	NE NW	4.0
4 N	27 E	WM	33	NW NW	3.0
4 N	27 E	WM	33	SW NW	3.0
4 N	27 E	WM	33	SE NW	4.0
4 N	27 E	WM	34	NE NW	2.9
4 N	27 E	WM	34	NW NW	26.6
4 N	27 E	WM	34	SW NW	28.9
4 N	27 E	WM	34	SE NW	3.6
4 N	27 E	WM	34	NE SW	0.1
4 N	27 E	WM	34	NW SW	0.1
Total					76.2

7. Transfer Application T-13164 proposes an additional point of appropriation approximately 0.4 mile from the existing points of appropriation to:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
New Well 4	4 N	27 E	WM	33	NW NE	290 FEET SOUTH AND 2330 FEET WEST FROM THE NE CORNER OF SECTION 28

8. The third right to be transferred is as follows:

Certificate: 68708 in the name of 12H, INC.; COREY, BYLER, REW, LORENZEN AND HOJEM (perfected under Permit U-498)
Use: IRRIGATION of 80 ACRES
Priority Date: DECEMBER 15, 1952
Rate: 1.0 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 a diversion of 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 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: WELLS 1, 2, 3, AND 4, within the UMATILLA RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	27 E	WM	28	SW NE	WELL 1- 3180 FEET NORTH AND 1470 FEET WEST FROM THE SE CORNER OF SECTION 28
4 N	27 E	WM	28	SW SE	WELL 2- 20 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER OF SECTION 28
4 N	27 E	WM	33	NW NE	WELL 3- 1270 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 33
4 N	27 E	WM	33	SW NE	WELL 4- 1940 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	28	SW NE	34.0
4 N	27 E	WM	28	SE NE	28.0
4 N	27 E	WM	33	NE NW	4.6
4 N	27 E	WM	33	NW NW	4.4
4 N	27 E	WM	33	SW NW	4.4
4 N	27 E	WM	33	SE NW	4.6
Total					80.0

9. Transfer Application T-13164 proposes an additional point of appropriation approximately 0.4 mile from the existing points of appropriation to:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
New Well 4	4 N	27 E	WM	33	NW NE	290 FEET SOUTH AND 2330 FEET WEST FROM THE NE CORNER OF SECTION 28

10. The fourth right to be transferred is as follows:

Certificate: 68709 in the name of 12H, INC.; COREY, BYLER, REW, LORENZEN AND HOJEM (perfected under Permit G-100)

Use: IRRIGATION of 64.6 ACRES

Priority Date: SEPTEMBER 26, 1955

Rate: 0.81 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 a diversion of 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: WELLS 1, 2, 3, AND 4 in the UMATILLA RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	27 E	WM	28	SW NE	WELL 1- 3180 FEET NORTH AND 1470 FEET WEST FROM THE SE CORNER OF SECTION 28
4 N	27 E	WM	28	SW SE	WELL 2- 20 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER OF SECTION 28
4 N	27 E	WM	33	NW NE	WELL 3- 1270 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 33
4 N	27 E	WM	33	SW NE	WELL 4- 1940 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	28	NW NE	0.4
4 N	27 E	WM	28	NE SE	23.6
4 N	27 E	WM	28	NW SE	24.2
4 N	27 E	WM	33	NE NW	4.2
4 N	27 E	WM	33	NW NW	4.0
4 N	27 E	WM	33	SW NW	4.0
4 N	27 E	WM	33	SE NW	4.2
Total					64.6

11. Transfer Application T-13164 proposes an additional point of appropriation approximately 0.4 mile from the existing points of appropriation to:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
New Well 4	4 N	27 E	WM	33	NW NE	290 FEET SOUTH AND 2330 FEET WEST FROM THE NE CORNER OF SECTION 28

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

Certificate: 68710 in the name of 12H, INC.; COREY, BYLER, REW, LORENZEN AND HOJEM (perfected under Permit U-336)
Use: IRRIGATION of 79.9 ACRES
Priority Date: JUNE 2, 1950
Rate: 1.0 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 a diversion of 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: WELLS 1, 2, 3, AND 4 in the UMATILLA BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	27 E	WM	28	SW NE	WELL 1- 3180 FEET NORTH AND 1470 FEET WEST FROM THE SE CORNER OF SECTION 28
4 N	27 E	WM	28	SW SE	WELL 2- 20 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER OF SECTION 28
4 N	27 E	WM	33	NW NE	WELL 3- 1270 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 33
4 N	27 E	WM	33	SW NE	WELL 4- 1940 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	33	NE NE	19.95
4 N	27 E	WM	33	NW NE	20.00
4 N	27 E	WM	33	SW NE	20.00
4 N	27 E	WM	33	SE NE	19.95
Total					79.9

13. Transfer Application T-13164 proposes an additional point of appropriation approximately 0.4 mile from the existing points of appropriation to:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
New Well 4	4 N	27 E	WM	33	NW NE	290 FEET SOUTH AND 2330 FEET WEST FROM THE NE CORNER OF SECTION 28

14. The sixth right to be transferred is as follows:

Certificate: 68711 in the name of 12H INC.; COREY, BYLER, REW, LORENZEN AND HOJEM (perfected under Permit G-3197)

Use: IRRIGATION of 136.8 ACRES

Priority Date: MAY 16, 1966

Rate: 1.71 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 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: WELLS 1, 2, 3, AND 4 in the UMATILLA RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	27 E	WM	28	SW NE	WELL 1- 3180 FEET NORTH AND 1470 FEET WEST FROM THE SE CORNER OF SECTION 28
4 N	27 E	WM	28	SW SE	WELL 2- 20 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER OF SECTION 28
4 N	27 E	WM	33	NW NE	WELL 3- 1270 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 33
4 N	27 E	WM	33	SW NE	WELL 4- 1940 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	27 E	WM	4	NE SE	17.30
3 N	27 E	WM	4	NW SE	18.50
4 N	27 E	WM	28	NE NE	1.40
4 N	27 E	WM	28	NW NE	1.80
4 N	27 E	WM	28	NE SE	8.40
4 N	27 E	WM	28	NW SE	9.40
4 N	27 E	WM	28	SW SE	31.80
4 N	27 E	WM	28	SE SE	32.90
4 N	27 E	WM	33	NE NW	3.92
4 N	27 E	WM	33	NW NW	3.73
4 N	27 E	WM	33	SW NW	3.73
4 N	27 E	WM	33	SE NW	3.92
Total					136.8

15. Transfer Application T-13164 proposes an additional point of appropriation approximately 0.4 mile from the existing points of appropriation to:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
New Well 4	4 N	27 E	WM	33	NW NE	290 FEET SOUTH AND 2330 FEET WEST FROM THE NE CORNER OF SECTION 28

16. The seventh right to be transferred is as follows:

Certificate: 82599 in the name of TYLER HANSELL (perfected under Permit G-10651)
Use: IRRIGATION of 101.1 ACRES and SUPPLEMENTAL IRRIGATION of 705.4 ACRES
Priority Date: AUGUST 12, 1971
Rate: 6.98 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 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: ONE WELL

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	27 E	WM	28	SW SE	20 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	27 E	WM	3	NW NE	4.4
3 N	27 E	WM	3	SW NE	0.7
3 N	27 E	WM	3	SE NE	2.9
3 N	27 E	WM	3	SE NW	0.6
3 N	27 E	WM	3	NE SW	3.1
3 N	27 E	WM	3	NW SW	3.1
3 N	27 E	WM	3	SW SW	6.8
3 N	27 E	WM	3	NW SE	4.0
3 N	27 E	WM	4	NW SE	12.3
3 N	27 E	WM	4	SW SE	31.5
3 N	27 E	WM	4	SE SE	31.5
3 N	27 E	WM	10	SE NW	0.2
Total					101.1

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	27 E	WM	2	NW NW	28.6
3 N	27 E	WM	2	SW NW	17.8
3 N	27 E	WM	3	NE NE	32.3
3 N	27 E	WM	3	NW NE	29.7
3 N	27 E	WM	3	SW NE	13.3
3 N	27 E	WM	3	SE NE	19.0
3 N	27 E	WM	3	NE NW	32.7
3 N	27 E	WM	3	NW NW	27.5
3 N	27 E	WM	3	SW NW	33.6
3 N	27 E	WM	3	SE NW	15.1
3 N	27 E	WM	3	NE SW	30.0
3 N	27 E	WM	3	NW SW	26.0
3 N	27 E	WM	3	SW SW	31.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	27 E	WM	3	SE SW	31.1
3 N	27 E	WM	3	NE SE	36.1
3 N	27 E	WM	3	NW SE	32.0
3 N	27 E	WM	4	NE SE	31.3
3 N	27 E	WM	4	NW SE	18.5
3 N	27 E	WM	9	NE NE	31.5
3 N	27 E	WM	9	NW NE	35.5
3 N	27 E	WM	9	SW NE	23.5
3 N	27 E	WM	9	SE NE	19.5
3 N	27 E	WM	10	SW NE	10.4
3 N	27 E	WM	10	NE NW	39.0
3 N	27 E	WM	10	NW NW	38.7
3 N	27 E	WM	10	SW NW	9.0
3 N	27 E	WM	10	SE NW	12.7
Total					705.4

17. Transfer Application T-13164 proposes an additional point of appropriation approximately 0.4 mile from the existing points of appropriation to:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
New Well 4	4 N	27 E	WM	33	NW NE	290 FEET SOUTH AND 2330 FEET WEST FROM THE NE CORNER OF SECTION 28

Transfer Review Criteria (OAR 690-380-4010)

18. Water has been used within the last five years prior to the submittal of Transfer Application T-13164 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.
19. 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-13164.
20. The proposed change would not result in enlargement of the rights.
21. The proposed change would not result in injury to other water rights.
22. All other application requirements are met.

Determination and Proposed Action

The additional points of appropriation proposed in Transfer Application T-13164 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-13164 is approved, the final order will include the following:

- 1. The additional points of appropriation proposed in Transfer Application T-13164 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 68706, 68707, 68708, 68709, 68710, 68711, 82599, and any related decree.*
- 3. Water right Certificates 68706, 68707, 68708, 68709, 68710, 68711 and, 82599 are cancelled.*
- 4. The quantity of water diverted at the additional points of appropriation (New Well 4), together with that diverted at the original points of appropriation (Wells 1, 2, 3, and 4), shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 1, 2, 3, and 4).*
- 5. Water shall be acquired from the same alluvial aquifer (water source) as the original points 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 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 in Salem, Oregon on

FEB 07 2020


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

This Preliminary Determination was prepared by Joan Smith, if you have any questions with regard to this document you may contact me at 503-986-0892 or by email at Joan.M.SMITH@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 these proceedings under the federal Service members 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.