

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13124, Josephine County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE

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

MURPHY ELECTRIC IRRIGATION INC
8227 NEW HOPE RD
GRANTS PASS, OR 97527

Receiving Landowner

JENNIFER CATLETT
JONATHON CATLETT
6063 WILLIAMS HWY
GRANTS PASS, OR 97527

Findings of Fact

1. On February 13, 2019, MURPHY ELECTRIC IRRIGATION, INC. filed an application to change the place of use under Certificate 54521. The Department assigned the application number T-13124.
2. The applicant and the receiving landowners, Jennifer Catlett and Jonathan Catlett, will be responsible for completion of the changes.
3. Notice of the application for transfer was published on February 19, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. On November 8, 2019, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13124 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of December 7, 2019 for the applicants to respond. The applicants requested that 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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5. The right to be transferred is as follows:

Certificate: 54521 in the name of MURPHY ELECTRIC IRRIGATION INC.
 (confirmed by Rogue River (F) Decree State Water Board)
Use: IRRIGATION of 2.0 ACRES
Priority Date: FEBRUARY 1899
Rate: 0.04 CUBIC FOOT PER SECOND, IF AVAILABLE AT THE ORIGINAL
 POINT OF DIVISION – NORTHSIDE DITCH
Source: APPLGATE RIVER a tributary to ROGUE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
37 S	5 W	WM	21	SE NW	MURPHY ELECTRIC IRRIGATION, INC. DITCH - 1550 FEET SOUTH AND 2200 FEET EAST FROM THE NW CORNER OF SECTION 21
38 S	4 W	WM	6	SW SW	NORTHSIDE DITCH - 950 FEET NORTH AND 200 FEET EAST FROM THE SW CORNER OF SECTION 6

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	5 W	WM	18	NW SE	2.0

5. Transfer Application T-13124 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	5 W	WM	18	NE SE	2.0

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

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 diversion structure and ditch 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-13124.
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.

Partial Cancellation of a Water Right

11. On February 13, 2019, the Department received an Affidavit for the Voluntary Cancellation of a portion of a water right certificate from Gary Bowden, Trustee. The right to be cancelled is as follows:

Certificate: 8718 in the name of DAVID G. SNIVELY (perfected under Permit S-7292)
Use: IRRIGATION of 2.0 ACRES
Priority Date: MAY 3, 1926
Rate: 0.025 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 in case of rotation.
Source: UNION CREEK, a tributary of APPLGATE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q
37 S	5 W	WM	18	SW NE
37 S	5 W	WM	18	NW SE

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	5 W	WM	18	NW SE	2.0

12. On February 13, 2019 the Department received an Affidavit for the Voluntary Cancellation of a portion of a water right certificate from Gary Bowden, Trustee. The right to be cancelled is as follows:

Certificate: 27462 in the name of MURPHY ELECTRIC IRRIGATION INC. (perfected under Permit S-23592)
Use: SUPPLEMENTAL IRRIGATION of 2.0 ACRES
Priority Date: APRIL 26, 1955
Rate: 0.025 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, 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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: BOARD SHANTY CREEK, a tributary of APPLGATE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
37 S	5 W	WM	21	NE NW

Authorized Place of Use to be Cancelled:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
37 S	5 W	WM	18	NW SE	2.0

Determination and Proposed Action

The change in place of use proposed in Transfer Application T-13124 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the abandoned rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved and the abandoned rights should be cancelled..

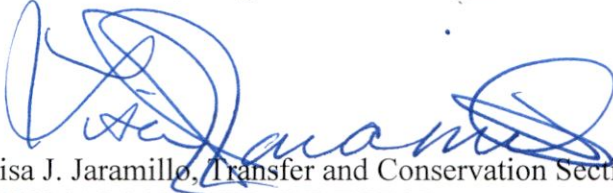
If Transfer Application T-13124 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-13124 is approved. The portions of the rights that have been abandoned are cancelled.*
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 54521 and any related decree.*
3. *Water right Certificates 54521, 8718, and 27462 are cancelled.*
4. *A new certificate will be issued for the portion of the right described by Certificate 54521 not affected by this transfer. New certificates will be issued for the portions of the rights described by certificates 8718 and 27462 not cancelled.*
5. *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 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.*
6. *The former place of use of the transferred right, shall no longer receive water under the right.*
7. *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.*

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

Dated in Salem, Oregon on

FEB 18 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

February 18, 2020

Applicant

MURPHY ELECTRIC IRRIGATION INC
8227 NEW HOPE RD
GRANTS PASS, OR 97527

Receiving Landowner

JENNIFER CATLETT
JONATHON CATLETT
6063 WILLIAMS HWY
GRANTS PASS, OR 97527

SUBJECT: Water Right Transfer Application T-13124

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13124. 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 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-13124
Scott C. Ceciliani, District 14 Watermaster (*via e-mail*)
Chuck Olinghouse, Agent for the applicant (*via e-mail*)
Jonathon Catlett and Jennifer Catlett, Receiving Landowner (*via e-mail*)

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