

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13400, Gilliam County)	PROPOSING APPROVAL OF A
)	CHANGE IN POINT OF
)	APPROPRIATION, A CHANGE IN
)	PLACE OF USE, AND A CHANGE IN
)	CHARACTER 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

WEEDMAN BROTHERS PARTNERSHIP
PO BOX 386
WASCO, OR 97065

Findings of Fact

1. On March 19, 2020, WEEDMAN BROTHERS PARTNERSHIP filed an application to change the point of appropriation, to change the place of use, and to change the character of use under Certificate 83254. The Department assigned the application number T-13400.
2. Notice of the application for transfer was published on March 24, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 29, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13400 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 1, 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.

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

Certificate: 83254 in the name of TIM R. MARICK (perfected under Permit G-9802)
Use: IRRIGATION OF 15.9 ACRES
Priority Date: APRIL 26, 1982
Rate: 0.2 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. The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.
Source: A WELL in the John Day Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	21 E	WM	19	NW SW	2880 FEET SOUTH AND 300 FEET EAST FROM THE NW CORNER OF SECTION 19

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
1 N	21 E	WM	18	SW SW	4	15.9

5. Transfer Application T-13400 proposes to move the authorized point of appropriation approximately 4.23 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	21 E	WM	34	NE NE	260 FEET SOUTH AND 410 FEET WEST FROM THE NE CORNER OF SECTION 34

6. Transfer application T-13400 proposes to change the character of use from irrigation of 15.9 acres to agricultural use.

7. Transfer Application T-134003400 also proposes to change the place of use of the right to cover the entirety of the property as follows:

AGRICULTURAL USE						
Twp	Rng	Mer	Sec	Tax Lot	Acres	
1 N	21 E	WM	18	1500		
1 N	21 E	WM	19	1500		
1 N	21 E	WM	20	1500		
1 N	21 E	WM	27	1500		
1 N	21 E	WM	28	1500		
1 N	21 E	WM	29	1500		
1 N	21 E	WM	30	1500		
1 N	21 E	WM	32	1500		
1 N	21 E	WM	34	1500		
TOTAL					15.9	

8. Certificate 83254 does not specify the irrigation season. The John Day Decree specifies the irrigation season as April 1 through September 31.
9. The change in character of use from irrigation shall be limited to the maximum amount of water used under the irrigation use.
10. The proposed agricultural use shall be limited to a rate of not to exceed 0.2 cfs and shall be further limited to a total volume diverted of 3.0 acre feet (AF) per acre per season.

Transfer Review Criteria (OAR 690-380-4010)

11. 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.
12. 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-13400.
13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.
15. All other application requirements are met.

Determination and Proposed Action

The change in point of appropriation, change in place of use, and change in character of use proposed in Transfer Application T-13400 appear 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-13400 is approved, the final order will include the following:

1. *The changes in point of appropriation, change in place of use, and change in character of use proposed in Transfer Application T-13400 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 Certificate 83254 and any related decree.*
3. *Water right Certificate 83254 is cancelled. A new certificate will be issued describing those portions of the right not affected by this transfer.*
4. *The period of use is limited to the irrigation season of April 1 through September 30.*
5. *The proposed agricultural use shall be limited to a rate of not to exceed 0.2 cfs and shall be further limited to a total volume diverted of 3.0 acre feet (AF) per acre per season. The use of water for irrigation of any other crop shall not exceed 15.9 acres.*

6. *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, (new and existing).*
 - 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.*
7. *The quantity of water diverted at the new point of appropriation, (Well), together with that diverted at the original point of appropriation (Well), shall not exceed the quantity of water lawfully available at the original point of appropriation, (Well).*
8. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
9. *The former place of use of the transferred right shall no longer receive water under the right.*
10. *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.*
11. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on OCT 08 2020


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

This Preliminary Determination was prepared by: Tamera Smith. If you have any questions about the information in this document, you may reach me at 503-986-0864 or tamera.l.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.

IMPORTANT: *Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.*

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.



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

OCTOBER 8, 2020

WEEDMAN BROTHERS PARTNERSHIP
PO BOX 386
WASCO, OR 97065

SUBJECT: Water Right Transfer Application T-13400

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13400. 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 Dalles Chronicle 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.

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

Please do not hesitate to contact me at tamera.l.smith@oregon.gov or via phone at 503-986-0864, if I may be of assistance.

Kindest regards,

Transfer Caseworker
Transfer and Conservation Section

cc: T-13400 transfer application file
Kenneth C. Thiemann, District 21 Watermaster (via e-mail)
John A. Short, Agent for the applicant (via e-mail)

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