

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13470, Harney County)	PROPOSING APPROVAL OF A
)	CHANGE IN POINT OF
)	APPROPRIATION AND
)	PLACE 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

RONALD AND DONNA WEDEL
35827 HUTCHENSON LANE
BURNS, OR 97720

Findings of Fact

1. On June 11, 2020, RONALD AND DONNA WEDEL filed an application to change the point of appropriation and place of use under Certificate 91023 and to change the place of use under Certificate 94941. The Department assigned the application number T-13470.
2. Notice of the application for transfer was published on June 30, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 25, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13470 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of November 24, 2020, for the applicants to respond. The applicant's agent 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. Citing infrastructure changes, the agent requested that the completion deadline be extended to 2025.

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 first right to be transferred is as follows:

Certificate: 91023 in the name of BRUCE AND WENDY RICKMAN AND JERRY AND LEZLIE O'SULLIVAN (perfected under Permit G-15019)
Use: IRRIGATION OF 40.0 ACRES
Priority Date: AUGUST 25, 2000
Rate: 0.5 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) and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Period of Use: MARCH 1 THROUGH OCTOBER 31
Source: ONE WELL IN SILVIES RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	32 E	WM	4	NW SW	WELL #1 - 1380 FEET NORTH AND 30 FEET EAST FROM THE SW CORNER OF SECTION 4

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
24 S	32 E	WM	4	NW NW	4	9.4
24 S	32 E	WM	4	SW NW		15.6
24 S	32 E	WM	4	NE SW		15.0
TOTAL						40.0

5. Transfer Application T-13470 proposes to move the authorized point of appropriation approximately 7.28 miles (mi.) from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	32.5 E	WM	21	NW NE	WELL (HARN 52035) - 70 FEET SOUTH AND 2260 FEET WEST FROM THE NE CORNER OF SECTION 21

6. Transfer Application T-13470 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	
23 S	32.5 E	WM	21	SW NW	10.0	
23 S	32.5 E	WM	21	SE NW	30.0	
TOTAL					40.0	

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

Certificate: 94941 in the name of DONNA WEDEL AND RONALD WEDEL (perfected under Permit G-17279)
Use: IRRIGATION OF 50.0 ACRES
Priority Date: FEBRUARY 27, 2014
Rate: 0.83 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-SIXTIETH of one cubic foot per second and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: WELL 1 in COW CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	32.5 E	WM	21	NW NE	70 FEET SOUTH AND 2260 FEET WEST FROM THE NE CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	32.5 E	WM	21	NE NE	11.0
23 S	32.5 E	WM	21	NW NE	9.0
23 S	32.5 E	WM	21	SW NE	8.8
23 S	32.5 E	WM	21	SE NE	11.2
23 S	32.5 E	WM	21	NE NW	10.0
TOTAL					50.0

8. Transfer Application T-13470 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	32.5 E	WM	21	NW NW	30.0
23 S	32.5 E	WM	21	SW NW	20.0
TOTAL					50.0

Transfer Review Criteria (OAR 690-380-4010)

9. 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.
10. 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-13470.
11. The proposed changes would not result in enlargement of the rights.
12. The proposed changes would not result in injury to other water rights.
13. All other application requirements are met.

Determination and Proposed Action

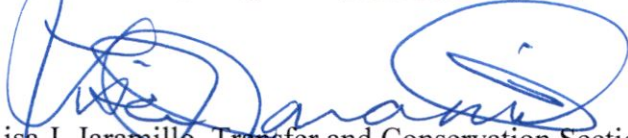
The change in point of appropriation and change in places of use proposed in Transfer Application T-13470 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-13470 is approved, the final order will include the following:

- 1. The change in point of appropriation and change in places of use proposed in Transfer Application T-13470 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 91023 and 94941 and any related decree.*
- 3. Water right Certificates 91023 and 94941 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
- 4. For Certificate 91023, the quantity of water diverted at the new point of appropriation, (Well), shall not exceed the quantity of water lawfully available at the original point of appropriation, (Well #1).*
- 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, (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.*
- 6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 7. The former place of use of the transferred rights shall no longer receive water under the right.*
- 8. 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.*

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

Dated in Salem, Oregon on FEB 09 2021


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

February 9, 2021

RONALD AND DONNA WEDEL
35827 HUTCHENSEN LANE
BURNS, OR 97720

SUBJECT: Water Right Transfer Application T-13470

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13470. 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 Burns Times-Herald 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 503-986-0864 if I may be of assistance.

Kindest regards,

Transfer Caseworker
Transfer and Conservation Section

cc: Transfer application file T-13470
J R. Johnson, District 10 Watermaster *(via e-mail)*
John A. Short, Agent for the applicant *(via e-mail)*

encs