

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13471, Coos County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE AND
)	CHARACTER 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.

Applicants

MICHAEL AND SUSAN MLYNARCZYK/
UPPER COOS RIVER WATER
ASSOCIATION (UCRWA) – TL 400
64225 SOLARI RD.
COOS BAY, OR 97420

DONALD AND DIANE BOYER/
TL 900
64110 SOLARI RD.
COOS BAY, OR 97420

DUSTIN AND EMILY PARKHURST/
UCRWA – TL 500
64204 SOLARI RD.
COOS BAY, OR 97420

TYLER AND STEFFANIE DEAN/
UCRWA – TL 600
66368 SUNSHINE ROAD
COOS BAY, OR 97420

ADAM HENRY KUBLI/
UCRWA – TL 600
64175 SOLARI RD.
COOS BAY, OR 97420

ROBERT AND TINA GEORGE/
UCRWA - TL 700
66340 SUNSHINE ROAD
COOS BAY, OR 97420

STEVE (UCRWA PRESIDENT)
AND TINA WINFREY/
UCRWA – TL 801
64078 SOLARI RD.
COOS BAY, OR 97420

STEVE (UCRWA PRESIDENT)
AND TINA WINFREY/
UCRWA – TL 1000
64108 SOLARI RD.
COOS BAY, OR 97420

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.

Findings of Fact

1. On June 17, 2020, MICHAEL AND SUSAN MLYNARCZYK, DUSTIN AND EMILY PARKHURST, ADAM HENRY KUBLI, STEVE AND TINA WINFREY, DONALD BOYER, TYLER AND STEFFANIE DEAN AND ROBERT AND TINA GEORGE filed an application to change the place of use and the character of use under Certificate 39351 and 39423. The Department assigned the application number T-13471.
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 July 29, 2020, the Department requested that the agent supply full address and tax lot information of the applicants.
4. On July 30, 2020, the agent for the applicants submitted the information requested in finding No. 3.
5. On November 21, 2020, the Department mailed a copy of the draft Preliminary Determination (DPD) proposing to approve Transfer Application T-13471 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of December 21, 2020, 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 applicant is authorized to pursue the transfer.
6. On December 22, 2020, the District 15 Watermaster specified measurement device conditions to be added to the DPD.
7. On January 8, 2021, the Department determined a revised DPD should be issued, as additional conditions were added.
8. On January 30, 2021, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-13471 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 1, 2021, for the applicants to respond.
9. On February 17, 2021, the agent for the applicants requested that the Department proceed with issuance of a Preliminary Determination.
10. The portion of the first right to be transferred is as follows:
 - Certificate:** 39351 in the name of SCHOOL DISTRICT NUMBER 9 (perfected under Permit S-9319)
 - Use:** DOMESTIC SUPPLY FOR NEW SCHOOL BUILDINGS AND TEACHERS RESIDENCE
 - Priority Date:** OCTOBER 16, 1929

Rate: 0.021 CUBIC FOOT PER SECOND (CFS) FOR THE NEW SCHOOL BUILDINGS, AND 0.001 CFS FOR THE TEACHERS RESIDENCE
Source: UNNAMED CREEK, a tributary of COOS RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	12 W	WM	34	NW SE	6105.63 FEET SOUTH AND 1762.55 FEET WEST FROM THE W1/4 CORNER OF SECTION 26

Authorized Place of Use:

DOMESTIC SUPPLY FOR NEW SCHOOL BUILDING AND TEACHERS RESIDENCE					
Twp	Rng	Mer	Sec	Q-Q	GLot
25 S	12 W	WM	26	SW NW	5
25 S	12 W	WM	26	NW SW	

11. Transfer Application T-13471 proposes to change the place of use of the right to:

DOMESTIC EXPANDED						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	CFS
25 S	12 W	WM	26	NW SW	400	0.0028
25 S	12 W	WM	26	NW SW	500	0.0028
25 S	12 W	WM	26	NW SW	600	0.0028
25 S	12 W	WM	26	NW SW	801	0.0028
25 S	12 W	WM	26	NW SW	900	0.0028
25 S	12 W	WM	26	NW SW	1000	0.0028
25 S	12 W	WM	27	NE SE	600	0.0028
25 S	12 W	WM	27	NE SE	700	0.0028
TOTAL						0.022

12. Transfer Application T-13471 proposes to change the character of use from Domestic Supply for New School Buildings and Domestic Residence; to Domestic Expanded for Eight Residences.

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

Certificate: 39423 in the name of SCHOOL DISTRICT #9 (perfected under Permit S-34986)
Use: SCHOOL USE
Priority Date: APRIL 17, 1970
Rate: 0.02 CUBIC FOOT PER SECOND (CFS)
Source: UNNAMED STREAM a tributary of COOS RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	12 W	WM	34	NW SE	6105.63 FEET SOUTH AND 1762.55 FEET WEST FROM THE W1/4 CORNER OF SECTION 26

Authorized Place of Use:

SCHOOL USE					
Twp	Rng	Mer	Sec	Q-Q	GLot
25 S	12 W	WM	26	SW NW	5
25 S	12 W	WM	26	NW SW	

14. Transfer Application T-13471 proposes to change the place of use of the right to:

DOMESTIC EXPANDED						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	CFS
25 S	12 W	WM	26	NW SW	400	0.0025
25 S	12 W	WM	26	NW SW	500	0.0025
25 S	12 W	WM	26	NW SW	600	0.0025
25 S	12 W	WM	26	NW SW	801	0.0025
25 S	12 W	WM	26	NW SW	900	0.0025
25 S	12 W	WM	26	NW SW	1000	0.0025
25 S	12 W	WM	27	NE SE	600	0.0025
25 S	12 W	WM	27	NE SE	700	0.0025
TOTAL						0.02

15. Transfer Application T-13471 proposes to change the character of use from School Use; to Domestic Expanded Use for Eight Residences.

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

16. 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 rights are subject to forfeiture under ORS 540.610.
17. A diversion structure and ditch 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-13471.
18. The proposed changes, as conditioned, would not result in enlargement of the rights.
19. The proposed changes would not result in injury to other water rights.
20. All other application requirements are met.

Determination and Proposed Action

The change in place of use and change in character of use proposed in Transfer Application T-13471 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-13471 is approved, the final order will include the following:

- The change in place of use and change in character of use proposed in Transfer Application T-13471 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 this order and Certificates 39351 and 39423, and any related decree.*
3. *Water right Certificate 39351 and 39423 are cancelled. New certificates will be issued describing the portion of these rights not affected by this transfer.*
4. *Water use measurement conditions:*
 - a. *Before water use may begin under this order, the water user shall install totalizing flow meters, at each point of diversion, (new and existing), as described below and illustrated on the attached map. Totalizing flow meter #1 shall be placed within 100 feet of the existing diversion point from the source (T25S, R12W, Section 34, NWSE, 6105.63 feet south and 1762.55 feet west from the W1/4 of Section 26); totalizing flow meter #2 shall be placed at the point of rediversion (labelled #2) and located in T25S, R12W, Section 27, NESE, approximately 500 feet south and 360 feet east from the NW corner of the NESE of Section 27 (the current location of the required meter under Limited License #1819); totalizing flow meter #3 shall be placed on the supply line and under the control of the owners of the property (currently Riverview Christian Fellowship) described as T25S, R12W, Section 26, SWNW and NWSW, tax lot 600.*
 - 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.*
5. *The former place of use of the transferred rights shall no longer receive water under the rights.*
6. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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 APR 07 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

April 7, 2021

VIA E-MAIL

MICHAEL AND SUSAN MLYNARCZYK/
UPPER COOS RIVER WATER
ASSOCIATION (UCRWA) – TL 400
64204 SOLARI RD.
COOS BAY, OR 97420

SUBJECT: Water Right Transfer Application T-13471

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13471. 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 The World 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,

Tamera Smith
Transfer Caseworker

Transfer and Conservation Section

cc: Transfer application file T-13471
Susan M. Douthit, District 15 Watermaster *(via email)*
Jake Johnstone, Regional Manager *(via email)*
Marc J. Van Camp, Agent for the applicant *(via email)*
Dustin and Emily Parkhurst, applicant *(via email)*
Adam Henry Kubli, applicant *(via email)*
Steve and Tina Winfrey, applicant *(via email)*
Donald Boyer, applicant *(via email)*
Tyler and Steffanie Dean, applicant *(via email)*
Robert and Tina George, applicant *(via email)*

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