

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-13502, Lake County	)	PROPOSING APPROVAL OF
	)	CHANGES IN POINTS OF
	)	APPROPRIATION AND
	)	CHANGE IN PLACES 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**

EVANS RANCH LAND, LLC  
91106 HORSESHOE LANE  
LAKEVIEW, OR 97630

**Findings of Fact**

1. On August 10, 2020, EVANS RANCH LAND, LLC filed an application to change the points of appropriation and to change the place of use under Certificates 53146, 87093, and 95027. The Department assigned the application number T-13502.
2. Notice of the application for transfer was published on August 11, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 10, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13502 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 12, 2021, 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.
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4. The portion of the first right to be transferred is as follows:

**Certificate:** 53146 in the name of TERRY VANDEVER (perfected under Permit G-7697)  
**Use:** IRRIGATION of 24.8 ACRES  
**Priority Date:** JULY 27, 1977  
**Rate:** 0.31 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 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, provided further that in the event of a request for a change in point of appropriation, an additional point of appropriation or repair of this well, the quantity of water allowed herein together with any other right from this point of appropriation shall not over exceed the capacity of this well at the time of perfection of this right.  
**Source:** ONE WELL a tributary of MILL CREEK

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	19 E	WM	30	SE SW	WELL #2 - 1310 FEET NORTH AND 1330 FEET EAST FROM SW CORNER, SECTION 30

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	18 E	WM	25	NE SE	24.8

5. Transfer Application T-13502 proposes to move the authorized point of appropriation for Certificate 53146 approximately 1.07 miles (mi.) from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	18 E	WM	36	NW SE	WELL #3 - 45.5 FEET SOUTH AND 2592.8 FEET WEST FROM THE EAST 1/4 CORNER OF SECTION 36

6. Transfer Application T-13502 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	18 E	WM	36	SW NE	14.92
40 S	18 E	WM	36	SE NE	9.88
TOTAL					24.8

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

**Certificate:** 87093 in the name of EVERETT J. AND DOROTHY L. BECRAFT (perfected under Permit G-3529)  
**Use:** IRRIGATION of 60.66 ACRES  
**Priority Date:** JULY 12, 1967  
**Rate:** 0.63 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 ONE-EIGHTIETH (1/80) 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:** A WELL in the MILL CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	18 E	WM	24	SE SE	WELL #1 - 400 FEET NORTH AND 1300 FEET WEST FROM THE SE CORNER OF SECTION 24

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	18 E	WM	24	NW SE	6.4
40 S	18 E	WM	24	SW SE	4.97
40 S	18 E	WM	24	SE SE	5.85
40 S	18 E	WM	25	NE NE	6.45
40 S	18 E	WM	25	NW NE	5.67
40 S	18 E	WM	25	SW NE	5.16
40 S	18 E	WM	25	SE NE	6.11
40 S	18 E	WM	25	NE NW	20.05
TOTAL					60.66

8. Transfer Application T-13502 proposes to move the authorized point of appropriation for Certificate 87093 approximately 1.06 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	18 E	WM	36	NW SE	WELL #3 - 45.5 FEET SOUTH AND 2592.8 FEET WEST FROM THE EAST 1/4 CORNER OF SECTION 36

9. Transfer Application T-13502 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	18 E	WM	36	NE NE	20.26
40 S	18 E	WM	36	NW NE	21.17
40 S	18 E	WM	36	SW NE	14.96
40 S	18 E	WM	36	SE NE	4.27
TOTAL					60.66

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

**Certificate:** 95027 in the name of BOBBY R. AND BILLIE L. EVANS (perfected under Permit G-3529)  
**Use:** IRRIGATION of 14.76 ACRES  
**Priority Date:** JULY 12, 1967  
**Rate:** 0.15 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, 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, and shall conform to such reasonable rotation system as may ordered by the proper state officer.

**Source:** A WELL in the MILL CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	18 E	WM	24	SE SE	WELL #1 - 400 FEET NORTH AND 1300 FEET WEST FROM THE SE CORNER OF SECTION 24

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	18 E	WM	24	SE SW	11.33
40 S	18 E	WM	25	NE NW	3.43
TOTAL					14.76

11. Transfer Application T-13502 proposes to move the authorized point of appropriation for Certificate 95027 approximately 1.06 miles (mi.) from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	18 E	WM	36	NW SE	WELL #3 - 45.5 FEET SOUTH AND 2592.8 FEET WEST FROM THE EAST 1/4 CORNER OF SECTION 36

12. Transfer Application T-13502 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	18 E	WM	36	SE NE	14.76

**Transfer Review Criteria (OAR 690-380-4010)**

13. 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.
14. 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-13502.
15. The proposed changes would not result in enlargement of the rights.
16. The proposed changes would not result in injury to other water rights.
17. All other application requirements are met.

## **Determination and Proposed Action**

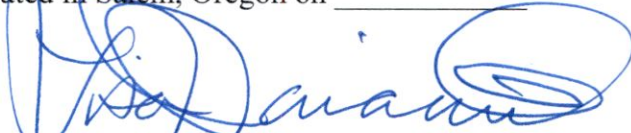
The changes in points of appropriation and change in places of use proposed in Transfer Application T-13502 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

1. *If Transfer Application T-13502 is approved, the final order will include the following:*
2. *The changes in points of appropriation and changes in places of use proposed in Transfer Application T-13502 are approved.*
3. *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 53146, 87093, and 95027, and any related decree.*
4. *Water right Certificates 53146, 87093, and 95027 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
5. *The quantity of water diverted at the new point of appropriation for Certificate 53146, (Well #3), shall not exceed the quantity of water lawfully available at the original point of appropriation, (Well #2).*
6. *The quantity of water diverted at the new point of appropriation for Certificate 87093, (Well #3), shall not exceed the quantity of water lawfully available at the original point of appropriation, (Well #1).*
7. *The quantity of water diverted at the new point of appropriation for Certificate 95027, (Well #3), shall not exceed the quantity of water lawfully available at the original point of appropriation, (Well #1).*
8. *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.*
9. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
10. *The former places of use of the transferred rights shall no longer receive water under the rights.*

11. 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.
12. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

APR 29 2021

Dated in Salem, Oregon on \_\_\_\_\_



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](mailto: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 29 2021

*VIA E-MAIL*

EVANS RANCH LAND, LLC  
91106 HORSESHOE LANE  
LAKEVIEW, OR 97630

SUBJECT: Water Right Transfer Application T-13502

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13502. 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 Lake County Examiner 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 503-986-0886 or [Patrick.K.Starnes@wrdd.state.or.us](mailto:Patrick.K.Starnes@wrdd.state.or.us) if I may be of assistance.

Kindest regards,

Tamera Smith  
Transfer Caseworker  
Transfer and Conservation Section

cc: Transfer application file T-13502  
Brian M. Mayer, District 12 Watermaster *(via e-mail)*  
Hollie Cannon, Agent for the applicant *(via e-mail)*

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