



# Oregon

Kate Brown, Governor

**Water Resources Department**

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Salem, OR 97301

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June 9, 2021

VIA E-MAIL

WILLAMETTE VALLEY LAND LLC  
C/O PAUL KUEHNE  
PO BOX 99  
LAFAYETTE, OR 97127

SUBJECT: Water Right Transfer Application T-13275

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13275. 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 McMinnville News-Register 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.

Please do not hesitate to contact me at 503-986-0892 or [Joan.M.Smith@ wrd.state.or.us](mailto:Joan.M.Smith@ wrd.state.or.us) if I may be of assistance.

Sincerely,

Joan Smith

Transfer Specialist

Transfer and Conservation Section

cc: Transfer Application File T-13275  
Gregory J. Wacker, District 16 Watermaster (*via e-mail*)  
Eric Urstadt, Agent for the applicant (*via e-mail*)

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-13275, Yamhill County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACES OF USE
	)	AND AN ADDITIONAL POINT
	)	OF APPROPRIATION

**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**

WILLAMETTE VALLEY LAND LLC  
C/O PAUL KUEHNE  
PO BOX 99  
LAFAYETTE, OR 97127

**Findings of Fact**

1. On October 21, 2019, WILLAMETTE VALLEY LAND LLC, C/O PAUL KUEHNE filed an application to change the places of use under Certificates 15091, 35059, 47564, and 47237 and to add an additional point of appropriation under Certificate 47237. The Department assigned the application number T-13275.
2. Notice of the application for transfer was published on October 29, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 16, 2020, the Department sent a draft preliminary determination to the applicant and requested a response by April 17, 2020.
4. On March 25, 2020, the agent for the applicant responded to the draft Preliminary Determination requested the Department amend the draft to correct inconsistencies.

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 portion of the first right to be transferred is as follows:

**Certificate:** 15091 in the name of HOWARD E. TRYON (perfected under Permit S-13897)

**Use:** IRRIGATION of 21.5 ACRES

**Priority Date:** JUNE 27, 1939

**Rate:** 0.27 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** YAMHILL RIVER, a tributary of WILLAMETTE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	3 W	WM	18	SE NW	NONE GIVEN

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	18	NW NW	46	3.8
4 S	3 W	WM	18	SW NW	46	16.1
4 S	3 W	WM	18	SE NW	46	1.6
Total:						21.5

6. Certificate 15091 does not describe the measured distance of the point of diversion, however the applicant has provided a description of the point as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	3 W	WM	18	SE NW	1720 FEET SOUTH AND 2025 FEET EAST FROM THE SE CORNER OF SECTION 12

7. Transfer Application T-13275 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	7	SW SW	-	1.8
4 S	3 W	WM	18	NW NW	46	2.6
4 S	3 W	WM	18	SW NW	46	14.1
4 S	4 W	WM	12	SE SE	60	3.0
Total:						21.5

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

**Certificate:** 35059 in the name of CASPER ROTH (perfected under Permit S-27978)  
**Use:** IRRIGATION of 20.3 ACRES  
**Priority Date:** APRIL 13, 1962  
**Rate:** 0.25 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, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** YAMHILL RIVER, a tributary of WILLAMETTE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	3 W	WM	18	SE NW	46	690 FEET SOUTH AND 4390 FEET EAST FROM THE NE CORNER OF WATT DLC 78

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	18	NW NW	46	2.7
4 S	3 W	WM	18	SW NW	46	14.8
4 S	4 W	WM	13	NE NE	60	1.0
4 S	4 W	WM	13	SE NE	60	1.8
Total:						20.3

9. The applicant provided a description of the point of diversion for Certificate 35059 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	3 W	WM	18	SE NW	1720 FEET SOUTH AND 2025 FEET EAST FROM THE SE CORNER OF SECTION 12

10. Transfer Application T-13275 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	7	SW SW	-	0.4
4 S	3 W	WM	18	NW NW	46	1.9
4 S	3 W	WM	18	SW NW	46	12.8
4 S	4 W	WM	12	SE SE	60	0.7
4 S	4 W	WM	13	NE NE	60	1.1
4 S	4 W	WM	13	SE NE	60	3.4
Total:						20.3

11. The third right to be transferred is as follows:

**Certificate:** 47237 in the name of WENDELLEN L. CHRISTENSON (perfected under Permit S-37990)  
**Use:** IRRIGATION of 3.4 ACRES  
**Priority Date:** APRIL 18, 1973  
**Rate:** 0.04 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** YAMHILL RIVER, a tributary of WILLAMETTE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	4 W	WM	12	SE SE	60	270 FEET NORTH AND 350 FEET WEST FROM THE SE CORNER OF SECTION 12

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	4 W	WM	12	SE SE		3.2
4 S	4 W	WM	13	NE NE	60	0.2

12. Transfer Application T-13275 proposes an additional point of appropriation approximately 0.6 mile SE from the original point of appropriation as describe below:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	3 W	WM	18	SE NW	46	1720 FEET SOUTH AND 2025 FEET EAST FROM THE SE CORNER OF SECTION 12

13. Transfer Application T-13275 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	18	NW NW	46	1.1
4 S	4 W	WM	13	NE NE	60	2.3

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

**Certificate:** 47564 in the name of THOMAS R ROTH (perfected under Permit S-38392)  
**Use:** IRRIGATION of 17.6 ACRES  
**Priority Date:** DECEMBER 7, 1973  
**Rate:** 0.22 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 irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** YAMHILL RIVER, a tributary of WILLAMETTE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	3 W	WM	18	SE NW	46	960 FEET NORTH AND 720 FEET WEST FROM THE CENTER OF SECTION 18

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	18	NW NW	46	17.6

15. The applicant provided a description of the point of diversion for Certificate 47564 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	3 W	WM	18	SE NW	1720 FEET SOUTH AND 2025 FEET EAST FROM THE SE CORNER OF SECTION 12

16. Transfer Application T-13275 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	7	SW SW	--	0.7
4 S	3 W	WM	18	NW NW	46	15.5
4 S	4 W	WM	12	SE SE	46	1.4
Total:						17.6

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

17. Water has been used within the last five years prior to submittal of the transfer application 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.

18. 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-13275.

19. The proposed change would not result in enlargement of the rights.
20. The proposed change would not result in injury to other water rights.
21. All other application requirements are met.

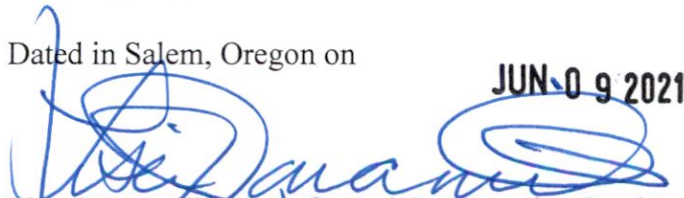
### **Determination and Proposed Action**

The change in places of use and additional point of appropriation proposed in Transfer Application T-13275 appears 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-13275 is approved, the final order will include the following:*

1. *The additional point of appropriation and change in places of use proposed in Transfer Application T-13275 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 15091, 35059, 47237, 47564 and any related decree.*
3. *Water right Certificates 15091, 35059, 47237, and 47564 are cancelled. New certificates will be issued describing those portions of Certificates 15091, 35059, and 47564 not affected by this transfer.*
4. *The former places of use of the transferred rights shall no longer receive water under the rights.*
5. *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 change and full beneficial use of the water.*
6. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated in Salem, Oregon on



**JUN 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 Joan Smith. If you have questions about the information in this document, you may reach me at 503-986-0892 or Joan.M.Smith@oregon.gov.