

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-13547, Wallowa County	)	PROPOSING APPROVAL OF AN
	)	ADDITIONAL POINT OF DIVERSION

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

COOL SPRINGS RANCH LLC
216 NEWBERG RD
CHAPIN, SC 29036

Findings of Fact

1. On November 4, 2020, STANLEY JAY YOST, TRUSTEE OF THE PAUL JAMES YOST TESTAMENTARY TRUST, filed an application for an additional point of diversion under Certificate 7803. The Department assigned the application number T-13547.
2. COOL SPRINGS RANCH LLC is the receiving landowner who will be responsible for completion of the changes.
3. Notice of the application for transfer was published on November 17, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. On May 17, 2021, the Department approved an assignment of Transfer Application T-13547 from Stanley Jay Yost, Trustee of the Paul James Yost Testamentary Trust to Cool Springs Ranch LLC.
5. On June 7, 2021, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13547 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 7, 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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6. The portion of the right to be transferred is as follows:

Certificate: 7803 in the name of J. H. MAXWELL (perfected under Permit S-7420)
Use: IRRIGATION of 36.3 ACRES
Priority Date: JULY 12, 1926
Rate: 0.46 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 in case of rotation.
Source: CHESNIMNUS, GOOSEBERRY & BUTTE CREEKS, tributary of JOSEPH CREEK (GRANDE RONDE RIVER)

Authorized Points of Diversion:

Twp	Rng	Mer	Sec
3 N	46 E	WM	32

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	46 E	WM	31	SE NE	8.7
3 N	46 E	WM	31	NE SE	18.0
3 N	46 E	WM	32	SW NW	8.0
3 N	46 E	WM	32	NW SW	1.6
Total					36.3

7. The Department received information from the applicant and the Watermaster that better describes the locations of the authorized points of diversion for Certificate 7803 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	46 E	WM	29	SW SW	POD 1 – 3285 FEET NORTH AND 785 FEET EAST OF THE 1/4 CORNER OF SECTION 31 AND 32
3 N	46 E	WM	32	SW NW	POD 2 – 820 FEET NORTH AND 545 FEET EAST OF THE 1/4 CORNER OF SECTION 31 AND 32
3 N	46 E	WM	32	NW SW	POD 4 – 920 FEET SOUTH AND 695 FEET EAST OF THE 1/4 CORNER OF SECTION 31 AND 32
3 N	46 E	WM	32	SW SW	POD 5 – 415 FEET NORTH AND 875 FEET EAST OF THE 1/4 CORNER OF SECTION 31 AND 32
3 N	46 E	WM	32	SE SW	POD 3 – 334 FEET NORTH AND 1560 FEET EAST OF THE 1/4 CORNER OF SECTION 31 AND 32

8. Transfer Application T-13547 proposes an additional point of diversion with approximate distances downstream as described below:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances	Authorized POD	Distance from POD in Miles (mi.)
2 N	46 E	WM	6	NE SE	15	POD 6 – 1485 FEET SOUTH AND 1025 FEET WEST OF THE CORNER OF SECTION 5 & 6	POD 1	1.2 mi.
							POD 2	0.8 mi.
							POD 4	0.6 mi.
							POD 5	0.5 mi.
							POD 3	0.5 mi.

9. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is currently equipped with an appropriate fish screening and/or by-pass device.

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

10. 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.
11. 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-13547.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.
14. All other application requirements are met.

Determination and Proposed Action

The additional point of diversion proposed in Transfer Application T-13547 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.

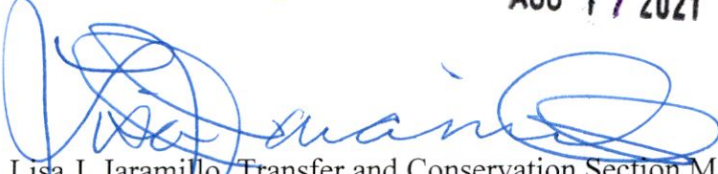
If Transfer Application T-13547 is approved, the final order will include the following:

1. *The additional point of diversion proposed in Transfer Application T-13547 is 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 7803 and any related decree.*
3. *Water right Certificate 7803 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The quantity of water diverted at the additional point of diversion (POD 6) together with that diverted at the original points of diversion (POD 1,2,3,4 and 5), shall not exceed the quantity of water lawfully available at the original points of diversion (POD 1,2,3,4 and 5).*
5. *The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.*

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 change and full beneficial use of the water.*
7. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on

AUG 17 2021



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

This Preliminary Determination was prepared by Scott Grew. If you have questions about the information in this document, you may reach him at scott.a.grew@oregon.gov or 503-986-0890.

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 servicemembers have a right to stay these proceedings under the federal Servicemembers 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

August 17, 2021

VIA E-MAIL

COOL SPRINGS RANCH LLC
216 NEWBERG RD
CHAPIN, SC 29036

SUBJECT: Water Right Transfer Application T-13547

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13547. 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 Wallowa County Chieftain 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 contact me at scott.a.grew@oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Scott Grew
Transfer Specialist

cc: Transfer Application file T-13547
David D. Bates, District 7 Watermaster (*via e-mail*)
Elizabeth Howard, Schwabe, Williamson and Wyatt, Agent for the applicant (*via e-mail*)

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