



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

SEPTEMBER 8, 2021

BADGER VENTURES, LLC
38281 Crane-Buchanan Road
Burns, OR 97720

SUBJECT: Water Right Transfer Application T-13346

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13346. 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.

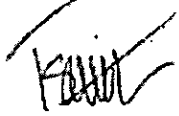
If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

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 503-979-9607 if I may be of assistance.

Kindest regards,

A handwritten signature in black ink, appearing to read 'Tamera L. Smith', with a large, sweeping flourish above the name.

Transfer Caseworker
Transfer and Conservation Section

cc: Transfer Application file T-13346
J R. Johnson, District 10 Watermaster (*via e-mail*)
John A. Short, Agent for the applicant (*via e-mail*)

encs

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

| | | |
|---------------------------------------|---|-------------------------------------|
| In the Matter of Transfer Application |) | PRELIMINARY DETERMINATION |
| T-13346, Harney County |) | PROPOSING APPROVAL OF A CHANGE IN |
| |) | POINT OF APPROPRIATION, A CHANGE IN |
| |) | PLACE OF USE, A CHANGE FROM |
| |) | SUPPLEMENTAL USE TO PRIMARY USE |
| |) | AND PARTIAL CANCELLATION OF WATER |
| |) | RIGHT CERTIFICATE 418 |

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

BADGER VENTURES, LLC
68281 CRANE BUCHANAN RD.
BURNS, OR 97720

Findings of Fact

1. On January 13, 2020, BADGER VENTURES, LLC filed an application for a change in point of appropriation, and a change from supplemental use to primary use under Certificate 94578, and to change the place of use under Certificates 94574, 94575, 94576, 94577, 94578, and 94579. The Department assigned the application number T-13346.
2. Notice of the application for transfer was published on January 21, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 9, 2021, the Department asked the agent to send in a partial cancellation and an historical use statement.

| |
|--|
| 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. On February 18, 2021, the agent for the applicant submitted documentation establishing the quantity of water historically used under the supplemental water right and a partial cancellation for the corresponding primary irrigation acres.
5. On May 1, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13346 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 31, 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
6. On May 28, 2021, the agent for the applicant requested the completion date be extended to October 1, 2026 due to the length of time it will take to build the irrigation system.
7. On June 2, 2021, the agent for the applicant sent revised application pages to the Department for Tables 1 and 2 and maps. The groundwater review states that the well HARN 52494 is an observation well. The application tables and maps have been revised to list L-113531, HARN 52029/52644 in place of HARN 52494, which is incorrectly listed on Certificates 94574, 94575, 94576, 94577, 94578, and 94579.
8. On July 29, 2021, the Department requested corrections for the measured distances for well HARN 52411, for the Certificate 94578 portion of the transfer application.
9. On August 3, 2021, the agent sent the Department a revised Table 1 and map for the Certificate 94578 portion of the transfer application, correcting the measured distances for well HARN 52411.

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

Certificate: 94574 in the name of BADGER VENTURES LLC (perfected under Permit G-2343)
Use: SUPPLEMENTAL IRRIGATION of 34.4 ACRES
Priority Date: JANUARY 14, 1963
Rate: 0.43 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; and shall conform to such reasonable rotation system as may be ordered by the proper state officer.
Source: A WELL in CROW CAMP CREEK BASIN

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|--|
| 22 S | 33 E | WM | 34 | SE SW | WELL HARN 52494 (NEW) - 500 FEET NORTH AND 2320 FEET EAST FROM THE SW CORNER OF SECTION 34 |

Authorized Place of Use:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 22 S | 33 E | WM | 34 | SW SE | 3.8 |
| 22 S | 33 E | WM | 34 | SE SE | 30.6 |
| TOTAL | | | | | 34.4 |

11. The authorized well is incorrectly listed on Certificate 94574. The agent has re-described the authorized well as follows:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|---|
| 22 S | 33 E | WM | 34 | SE SW | WELL L-113531 (HARN 52029/52644) - 500 FEET NORTH AND 2320 FEET EAST FROM THE SW CORNER OF SECTION 34 |

12. Transfer Application T-13346 proposes to change the place of use of the right to:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 22 S | 33 E | WM | 34 | NE SE | 8.6 |
| 22 S | 33 E | WM | 34 | NW SE | 8.6 |
| 22 S | 33 E | WM | 34 | SW SE | 8.6 |
| 22 S | 33 E | WM | 34 | SE SE | 8.6 |
| TOTAL | | | | | 34.4 |

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

Certificate: 94575 in the name of BADGER VENTURES LLC (perfected under Permit G-4330)

Use: SUPPLEMENTAL IRRIGATION of 34.4 ACRES

Priority Date: SEPTEMBER 23, 1968

Rate: 0.215 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; and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: A WELL in CROW CAMP CREEK BASIN

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|--|
| 22 S | 33 E | WM | 34 | SE SW | WELL HARN 52494 - 500 FEET NORTH AND 2320 FEET EAST FROM THE SW CORNER OF SECTION 34 |

Authorized Place of Use:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 22 S | 33 E | WM | 34 | SW SE | 3.8 |
| 22 S | 33 E | WM | 34 | SE SE | 30.6 |
| TOTAL | | | | | 34.4 |

14. The authorized well is incorrectly listed on Certificate 94575. The agent has re-described the authorized well as follows:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|---|
| 22 S | 33 E | WM | 34 | SE SW | WELL L-113531 (HARN 52029/52644) - 500 FEET NORTH AND 2320 FEET EAST FROM THE SW CORNER OF SECTION 34 |

15. Transfer Application T-13346 proposes to change the place of use of the right to:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 22 S | 33 E | WM | 34 | NE SE | 8.6 |
| 22 S | 33 E | WM | 34 | NW SE | 8.6 |
| 22 S | 33 E | WM | 34 | SW SE | 8.6 |
| 22 S | 33 E | WM | 34 | SE SE | 8.6 |
| TOTAL | | | | | 34.4 |

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

Certificate: 94576 in the name of BADGER VENTURES LLC (perfected under Permit G-6374)

Use: SUPPLEMENTAL IRRIGATION of 19.0 ACRES

Priority Date: DECEMBER 5, 1975

Rate: 0.24 CUBIC FOOT PER SECOND, IF AVAILABLE AT ORIGINAL POINT OF APPROPRIATION

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, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: A WELL in MALHEUR LAKE BASIN

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|--|
| 22 S | 33 E | WM | 34 | SE SW | WELL HARN 52494 - 500 FEET NORTH AND 2320 FEET EAST FROM THE SW CORNER OF SECTION 34 |

Authorized Place of Use:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 22 S | 33 E | WM | 34 | SW SE | 19.0 |

17. The authorized well is incorrectly listed on Certificate 94576. The agent has re-described the authorized well as follows:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|---|
| 22 S | 33 E | WM | 34 | SE SW | WELL L-113531 (HARN 52029/52644) - 500 FEET NORTH AND 2320 FEET EAST FROM THE SW CORNER OF SECTION 34 |

18. Transfer Application T-13346 proposes to change the place of use of the right to:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 22 S | 33 E | WM | 34 | NE SE | 4.8 |
| 22 S | 33 E | WM | 34 | NW SE | 4.8 |
| 22 S | 33 E | WM | 34 | SW SE | 4.7 |
| 22 S | 33 E | WM | 34 | SE SE | 4.7 |
| TOTAL | | | | | 19.0 |

19. The fourth right to be transferred is as follows:

Certificate: 94577 in the name of BADGER VENTURES LLC (perfected under Permit G-7024)

Use: SUPPLEMENTAL IRRIGATION of 19.8 ACRES

Priority Date: OCTOBER 25, 1976

Rate: 0.25 CUBIC FOOT PER SECOND, IF AVAILABLE AT ORIGINAL POINT OF APPROPRIATION

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 and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: A WELL in MALHEUR LAKE BASIN

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|--|
| 22 S | 33 E | WM | 34 | SE SW | WELL HARN 52494 - 500 FEET NORTH AND 2320 FEET EAST FROM THE SW CORNER OF SECTION 34 |

Authorized Place of Use:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 22 S | 33 E | WM | 34 | NW SE | 11.9 |
| 22 S | 33 E | WM | 34 | SW SE | 7.9 |
| TOTAL | | | | | 19.8 |

20. The authorized well is incorrectly listed on Certificate 94577. The agent has re-described the authorized well as follows:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|---|
| 22 S | 33 E | WM | 34 | SE SW | WELL L-113531 (HARN 52029/52644) - 500 FEET NORTH AND 2320 FEET EAST FROM THE SW CORNER OF SECTION 34 |

21. Transfer Application T-13346 proposes to change the place of use of the right to:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 22 S | 33 E | WM | 34 | NE SE | 5.0 |
| 22 S | 33 E | WM | 34 | NW SE | 5.0 |
| 22 S | 33 E | WM | 34 | SW SE | 4.9 |
| 22 S | 33 E | WM | 34 | SE SE | 4.9 |
| TOTAL | | | | | 19.8 |

22. The fifth right to be transferred is as follows:

Certificate: 94578 in the name of BADGER VENTURES LLC (perfected under Permit G-7076)

Use: SUPPLEMENTAL IRRIGATION of 31.3 ACRES

Priority Date: JANUARY 18, 1977

Rate: 0.39 CUBIC FOOT PER SECOND, IF AVAILABLE AT THE ORIGINAL POINTS OF APPROPRIATION

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.

Source: A WELL in MALHEUR LAKE BASIN

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|--|
| 22 S | 33 E | WM | 34 | SE SW | WELL HARN 52494 - 500 FEET NORTH AND 2320 FEET EAST FROM THE SW CORNER OF SECTION 34 |

Authorized Place of Use:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 22 S | 33 E | WM | 34 | NE SE | 30.6 |
| 22 S | 33 E | WM | 34 | NW SE | 0.7 |
| TOTAL | | | | | 31.3 |

23. The authorized well is incorrectly listed on Certificate 94578. The agent has re-described the authorized well as follows:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|---|
| 22 S | 33 E | WM | 34 | SE SW | WELL L-113531 (HARN 52029/52644) - 500 FEET NORTH AND 2320 FEET EAST FROM THE SW CORNER OF SECTION 34 |

24. Transfer Application T-13346 proposes to change the point of appropriation approximately 1.03 miles from the existing point of appropriation to:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|---|
| 23 S | 33 E | WM | 3 | SE SW | WELL HARN 52411 - 470 FEET NORTH AND 1660 FEET EAST FROM THE SW CORNER OF SECTION 3 |

25. Transfer Application T-13346 also proposes to change the place of use of the right to:

| SUPPLEMENTAL IRRIGATION | | | | | | |
|-------------------------|------|-----|-----|-------|-------|-----------------------------------|
| Twp | Rng | Mer | Sec | Q-Q | Acres | Well |
| 22 S | 33 E | WM | 34 | NE SE | 3.7 | L-113531 (HARN 52029/52644) |
| 22 S | 33 E | WM | 34 | NW SE | 3.7 | |
| 22 S | 33 E | WM | 34 | SW SE | 3.6 | |
| 22 S | 33 E | WM | 34 | SE SE | 3.7 | |
| TOTAL | | | | | 14.7 | |

| PRIMARY IRRIGATION | | | | | | | |
|--------------------|------|-----|-----|-------|------|-------|------------|
| Twp | Rng | Mer | Sec | Q-Q | GLot | Acres | Well |
| 22 S | 33 E | WM | 34 | SW SE | | 0.4 | HARN 52411 |
| 22 S | 33 E | WM | 34 | SE SE | | 0.2 | |
| 23 S | 33 E | WM | 3 | NE NE | 1 | 1.9 | |
| 23 S | 33 E | WM | 3 | NW NE | 2 | 1.5 | |
| 23 S | 33 E | WM | 3 | SW NE | | 2.1 | |
| 23 S | 33 E | WM | 3 | SE NE | | 2.0 | |
| 23 S | 33 E | WM | 3 | NE NW | 3 | 0.4 | |
| 23 S | 33 E | WM | 3 | SE NW | | 0.3 | |
| 23 S | 33 E | WM | 3 | NE SW | | 0.5 | |
| 23 S | 33 E | WM | 3 | SE SW | | 0.4 | |
| 23 S | 33 E | WM | 3 | NE SE | | 1.9 | |
| 23 S | 33 E | WM | 3 | NW SE | | 1.4 | |

| PRIMARY IRRIGATION | | | | | | | |
|--------------------|------|-----|-----|-------|------|-------|------|
| Twp | Rng | Mer | Sec | Q-Q | GLot | Acres | Well |
| 23 S | 33 E | WM | 3 | SW SE | | 1.7 | |
| 23 S | 33 E | WM | 3 | SESE | | 1.9 | |
| TOTAL | | | | | | 16.6 | |

26. Transfer Application T-13346 also proposes to change the character of use for 16.6 acres to primary irrigation.
27. On February 18, 2021, the agent for the applicant submitted documentation establishing the quantity of water historically used under the supplemental water right. The evidence establishes that full measure of the right was historically used for supplemental irrigation, as water from the primary surface water source was not available for the 2017 – 2020 seasons.
28. The amount of water used for primary irrigation, 0.21 CFS, together with the amount secured under any other right existing for the same lands, shall be limited to a diversion of 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.
29. The sixth right to be transferred is as follows:

Certificate: 94579 in the name of BADGER VENTURES LLC (perfected under Permit G-8980)

Use: SUPPLEMENTAL IRRIGATION of 18.1 ACRES

Priority Date: JUNE 6, 1980

Rate: 0.23 CUBIC FOOT PER SECOND, IF AVAILABLE AT ORIGINAL POINTS OF APPROPRIATION

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.

Source: A WELL in MALHEUR LAKE BASIN

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|--|
| 22 S | 33 E | WM | 34 | SE SW | WELL HARN 52494 - 500 FEET NORTH AND 2320 FEET EAST FROM THE SW CORNER OF SECTION 34 |

Authorized Place of Use:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 22 S | 33 E | WM | 34 | NW SE | 18.1 |

30. The authorized well is incorrectly listed on Certificate 94579. The agent has re-described the authorized well as follows:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|---|
| 22 S | 33 E | WM | 34 | SE SW | WELL L-113531 (HARN 52029/52644) - 500 FEET NORTH AND 2320 FEET EAST FROM THE SW CORNER OF SECTION 34 |

31. Transfer Application T-13346 proposes to change the place of use to:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 22 S | 33 E | WM | 34 | NE SE | 4.5 |
| 22 S | 33 E | WM | 34 | NW SE | 4.6 |
| 22 S | 33 E | WM | 34 | SW SE | 4.5 |
| 22 S | 33 E | WM | 34 | SE SE | 4.5 |
| TOTAL | | | | | 18.1 |

Partial Cancellation of Water Rights

32. On February 18, 2021, an affidavit for the voluntary cancellation of a portion of a water right certificate was received from the applicant’s agent. The right to be cancelled is as follows:

Certificate: 418 in the name of JOHN E. LOGGIN (perfected under Permit S-125)
Use: IRRIGATION of 16.6 ACRES
Priority Date: SEPTEMBER 28, 1909
Rate: 0.21 CUBIC FOOT PER SECOND
Source: LITTLE ROCK CREEK, a tributary of HARNEY VALLEY

Authorized Point of Appropriation:

Not Described

Authorized Place of Use to be Cancelled:

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 22 S | 33 E | WM | 34 | SW SE | 8.3 |
| 22 S | 33 E | WM | 34 | SE SE | 8.3 |
| TOTAL | | | | | 16.6 |

Transfer Review Criteria (OAR 690-380-4010)

33. 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.

34. 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-13346.

35. The proposed changes, as conditioned, would not result in enlargement of the rights.
36. The proposed changes would not result in injury to other water rights.
37. Consistent with OAR 690-380-2240(5), the priority dates and sources for the primary irrigation rights located at the place of use from which the supplemental irrigation rights are to be moved are similar in reliability to those of the primary irrigation rights currently located at the proposed place of use.
38. All other application requirements are met.

Determination and Proposed Action

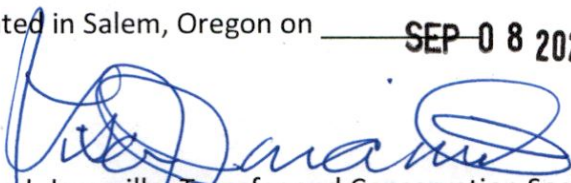
The change in point of appropriation, change in places of use, and change in character of use proposed in Transfer Application T-13346 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. The portion of the right that has been abandoned is cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-13346 is approved, the final order will include the following:

1. *The change in point of appropriation, change in places of use, and change in character of use proposed in Transfer Application T-13346 are approved, and the portion of the abandoned right is cancelled.*
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 94574, 94575, 94576, 94577, 94578, 94579 and any related decree.*
3. *Water right Certificates 418, 94574, and 94575 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer and cancellation.*
4. *Water right Certificates 94576, 94577, 94578, and 94579 are cancelled.*
5. *The quantity of water diverted at the new point of appropriation, (Well HARN 52411), shall not exceed the quantity of water lawfully available at the original point of appropriation, (East Well and West Well).*
6. *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.*

7. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
8. *The former place of use of the transferred rights shall no longer receive water under the rights.*
9. *The amount of water used for primary irrigation, 0.21 CFS, together with the amount secured under any other right existing for the same lands, shall be limited to a diversion of 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.*
10. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2026**. 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.*
11. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated in Salem, Oregon on SEP 08 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 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.

