



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

October 5, 2021

TOWNSEND HB LLC
C/O WILLIAM TOWNSEND
23400 NE TOWNSEND WAY
FAIRVIEW, OR 97024

SUBJECT: Water Right Transfer Application T-13574

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13574. 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 Sandy Post 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 dark ink, appearing to read 'Tamera L. Smith', with a stylized flourish at the end.

Transfer Caseworker
Transfer and Conservation Section

cc: Transfer Application file T-13574
Amy J. Landvoigt, District 20 Watermaster (*via e-mail*)
Doann Hamilton, 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-13574, Clackamas County	)	PROPOSING APPROVAL OF ADDITIONAL
	)	POINTS OF APPROPRIATION

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

TOWNSEND HB LLC
C/O WILLIAM TOWNSEND
23400 NE TOWNSEND WAY
FAIRVIEW, OR 97024

Findings of Fact

1. On December 22, 2020, TOWNSEND HB LC C/O WILLIAM TOWNSEND filed an application for additional points of appropriation under Certificate 65961. The Department assigned the application number T-13574.
2. Notice of the application for transfer was published on December 29, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 22, 2021, the Department sent a copy of the draft Preliminary Determination proposing to deny Transfer Application T-13574, due to the potential for proposed Wells 6 and 7 to cause injury to other existing water rights, to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 22, 2021 for the applicants to respond.

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 June 23, 2021, the Department received a revised transfer application and maps for Transfer T-13574. The revision removed wells 6 and 7 from the application, thereby removing the cause of injury.
5. On July 21, 2021, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T- 13574 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 30, 2021, for the applicant to respond. The agent for the applicant requested that the Department proceed with issuance of a Preliminary Determination.
6. On July 28, 2021, the agent for the applicant requested that the completion date be extended to October 1, 2023, due to the amount of time it will take to complete construction of the wells.
7. The right to be transferred is as follows:

Certificate: 65961 in the name of SHIRLEY B. MOLLER (perfected under Permit G-9796)

Use: PRIMARY IRRIGATION of 33.7 ACRES AND SUPPLEMENTAL IRRIGATION of 63.0 ACRES

Priority Date: MAY 18, 1982

Rate: 1.2 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation used under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

Source: A WELL in the DEEP CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	4 E	WM	21	SW NW	450 FEET NORTH AND 590 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 21

Authorized Place of Use:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	4 E	WM	21	NW NW	29.7
2 S	4 E	WM	21	SW NW	1.0
2 S	4 E	WM	21	SE NW	3.0
TOTAL					33.7

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	4 E	WM	21	SW NW	26.0
2 S	4 E	WM	21	SE NW	37.0
TOTAL					63.0

8. The authorized point of diversion location has been re-described by the applicant's agent as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	4 E	WM	21	SW NW	WELL 1 - 455 FEET NORTH AND 660 FEET EAST FROM THE WEST $\frac{1}{4}$ CORNER OF SECTION 21

9. Transfer Application T-13574 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Estimated Distance from the Authorized Point of Appropriation in Miles (mi.)
2 S	4 E	WM	21	NW NW	WELL 2 - 1375 FEET NORTH AND 490 FEET EAST FROM THE WEST $\frac{1}{4}$ CORNER OF SECTION 21	0.20 mi.
2 S	4 E	WM	21	NW NW	WELL 3 - 1910 FEET NORTH AND 785 FEET EAST FROM THE WEST $\frac{1}{4}$ CORNER OF SECTION 21	0.28 mi.
2 S	4 E	WM	21	SW NW	WELL 4 - 1265 FEET NORTH AND 610 FEET EAST FROM THE WEST $\frac{1}{4}$ CORNER OF SECTION 21	0.15 mi.
2 S	4 E	WM	21	SW NW	WELL 5 - 850 FEET NORTH AND 790 FEET EAST FROM THE WEST $\frac{1}{4}$ CORNER OF SECTION 21	0.09 mi.
2 S	4 E	WM	21	SE NW	WELL 8 - 655 FEET NORTH AND 1825 FEET EAST FROM THE WEST $\frac{1}{4}$ CORNER OF SECTION 21	0.24 mi.

Transfer Review Criteria (OAR 690-380-4010)

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-13574.
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 points of appropriation proposed in Transfer Application T-13574 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.

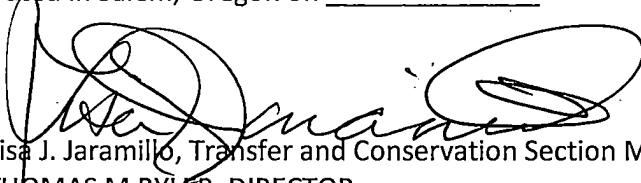
If Transfer application T-13574 is approved, the final order will include the following:

- 1. The additional points of appropriation proposed in Transfer Application T-13574 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 Certificate 65961 and any related decree.*
- 3. Water right Certificate 65961 is cancelled.*
- 4. The combined quantity of water diverted at the additional points of appropriation (Wells 2, 3, 4, 5, 6, 7, and 8), together with that diverted at the original point of appropriation (Re-Described Well 1), shall not exceed the quantity of water lawfully available at the original points of appropriation (Re-Described Well 1).*
- 5. 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.*
- 6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. 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.*

8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

OCT 05 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 503-979-9607 or tamera.l.smith@oregon.gov

Protests should be addressed to the attention of Water Rights 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.