



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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November 9, 2021

Applicants

GLENN F. WOODBURY
932 ST. ANDREWS WAY
EAGLE POINT, OR 97524

TRIN CORP ROTH 401(K)
JAMES BEARD
711 MEDFORD CENTER PMB 126
MEDFORD, OR 97504

SUBJECT: Water Right Transfer Application T-13592

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13592. 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 Grants Pass Daily Courier 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-13592
Scott C. Ceciliani, District 14 Watermaster (via e-mail)
Steven P. Boyd, 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-13592, Josephine County)	PROPOSING APPROVAL OF A
)	CHANGE IN PLACE OF USE AND
)	CHARACTER OF USE

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.

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Findings of Fact

1. On January 4, 2021, GLENN F. WOODBURY filed an application change the place of use and to change the character of use under Certificate 4903. The Department assigned the application number T-13592.
2. On April 16, 2021, a partial assignment from GLENN F. WOODBURY to TRIN CORP ROTH 401(K) JAMES BEARD was recorded.
3. Notice of the application for transfer was published on January 26, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. On September 22, 2021, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13592 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 22, 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.

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

Certificate: 4903 in the name of H. B. HENDRICKS AND WM. H. WOODBURY
(perfected under Permit S-4471)
Use: IRRIGATION of 2.0 ACRES
Priority Date: FEBRUARY 17, 1920
Rate: 0.025 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: WEST BRANCH ILLINOIS RIVER, a tributary of ILLINOIS RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
NOT DESCRIBED IN CERTIFICATE				

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	9 W	WM	25	NW NW	2.0

6. The Department received information from the applicant that describes the location of the authorized point of diversion as being:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	9 W	WM	25	SW NW	1580 FEET SOUTH AND 830 FEET EAST FROM THE NW CORNER OF SECTION 25

7. Transfer Application T-13592 proposes to change the character of use for 1.0 acre listed in Finding of Fact #4 from Irrigation of 1.0 acre to Group Domestic from April 1 to November 1.
8. Transfer Application T-13592 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	9 W	WM	25	NW NE	1.0

GROUP DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	9 W	WM	25	NW NE	

9. Certificate 4903 does not specify the irrigation season, however the Illinois River Decree defines the irrigation season from April 1 to November 1.
10. The total volume of water that may be diverted for Group Domestic uses, as conditioned, is limited to 3.5 Acre-Feet (AF) April through October. (3.5 AF/acre x 1.0 acre = 3.5 AF).

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

11. 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.
12. 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-13592.
13. The proposed changes would not result in enlargement of the right.
14. The proposed changes would not result in injury to other water rights.
15. All other application requirements are met.

Determination and Proposed Action

The change in place of use and character of use proposed in Transfer Application T-13592 appear 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-13592 is approved, the final order will include the following:

1. *The change in place of use and character of use proposed in Transfer Application T-13592 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 4903 and any related decree.*
3. *Water right Certificate 4903 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The use of water for the proposed group domestic use shall be limited to the original season of use, April 1 to November 1.*
5. *The rate of diversion for the proposed group domestic use shall be limited to 0.0125 cubic foot per second and shall be further limited to a total volume diverted of 3.5 acre-feet during the time period of April 1 to November 1.*
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 diversion or re-diversion.*
 - 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. *The former place of use of the transferred right shall no longer receive water under the right.*
8. *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 change and full beneficial use of the water.*
9. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on

NOV 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 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.