



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

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December 1, 2021

VIA CERTIFIED MAIL AND E-MAIL

Applicant

MONTE HEID

5261 SOUTH ROAD L

JAMIESON, OR 97909

SUBJECT: Water Right Transfer Application T-13104

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13104. 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 Malheur Enterprise 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.

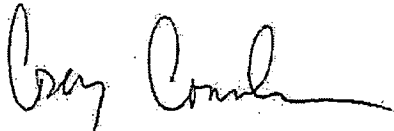
If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

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 corey.a.courchane@oregon.gov or (503) 979-3917, if I may be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Courchane". The signature is fluid and cursive, with a long horizontal stroke at the end.

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: Transfer application file T-13104
Jered L. Hoshaw, District 9 Watermaster (*via e-mail*)
Nancy Rorick, 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-13104, Malheur 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

MONTE HEID
5261 SOUTH ROAD L
JAMIESON, OR 97909

Findings of Fact

1. On January 11, 2019, MONTE HEID filed an application for additional points of appropriation under Certificates 51777, 51778, 60415, and 82626. The Department assigned the application number T-13104.
2. Notice of the application for transfer was published on January 22, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 2, 2020, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of a deficiency in the application. The application did not clearly explain the intent of the application with regards to the additional points of appropriation being utilized. The Department requested that the deficiencies be resolved by November 2, 2020. The agent submitted a revised Table 2 for each water right involved in T-13104, resolving the deficiency.

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 August 4, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13104 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 3, 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.
5. The first right to be transferred is as follows:

Certificate: 51777 in the name of GUM CREEK FARMS INC. and KANSAS CITY LIFE INSURANCE, COMPANY (perfected under Permit G-6720)

Use: IRRIGATION of 246.2 ACRES

Priority Date: OCTOBER 1, 1971

Rate: 2.23 CUBIC FEET 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.

Source: SHAFFER WELL 5, a tributary of GUM CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	5	SW SW	SHAFFER WELL 5 - 70 FEET NORTH AND 860 FEET EAST FROM THE SW CORNER OF SECTION 5

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	43 E	WM	5	NW SW	12.8
16 S	43 E	WM	5	SW SW	36.1
16 S	43 E	WM	5	SE SW	24.4
16 S	43 E	WM	5	SW SE	4.2
16 S	43 E	WM	6	NE SW	10.1
16 S	43 E	WM	6	NE SE	35.1
16 S	43 E	WM	6	NW SE	32.8
16 S	43 E	WM	6	SW SE	3.8
16 S	43 E	WM	6	SE SE	16.8
16 S	43 E	WM	8	NE NE	3.1
16 S	43 E	WM	8	NW NE	37.0
16 S	43 E	WM	8	SW NE	3.4
16 S	43 E	WM	8	NE NW	23.0
16 S	43 E	WM	8	NW NW	3.6
Total					246.2

6. The Department received information from the applicant that re-describes the location of the authorized point of appropriation for Certificate 51777 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	5	SW SW	SHAFFER WELL 5 - 175 FEET NORTH AND 921 FEET EAST FROM THE SW CORNER OF SECTION 5

7. Transfer Application T-13104 proposes additional points of appropriation approximately as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximated distance from original point of appropriation in miles (mi.)
16 S	42 E	WM	1	SE SE	WELL 1 (NEW) - 1307 FEET NORTH AND 1307 FEET WEST FROM THE SE CORNER OF SECTION 1	1.4 mi.
16 S	43 E	WM	6	NW SE	WELL 14 - 1672 FEET NORTH AND 2614 FEET WEST FROM THE SE CORNER OF SECTION 6	0.7 mi.
16 S	43 E	WM	6	SE SE	WELL 8 - 712 FEET NORTH AND 413 FEET WEST FROM THE SE CORNER OF SECTION 6	0.3 mi.
16 S	43 E	WM	8	SW NE	WELL 11 - 1525 FEET SOUTH AND 2018 FEET WEST FROM THE NE CORNER OF SECTION 8	0.5 mi.

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

Certificate: 51778 in the name of GUM CREEK FARMS and KANSAS CITY LIFE INSURANCE, COMPANY (perfected under Permit G-6719)

Use: SUPPLEMENTAL IRRIGATION of 246.2 ACRES

Priority Date: OCTOBER 1, 1971

Rate: 1.33 CUBIC FEET 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.

Source: SCHAFFER WELL 8, a tributary of GUM CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	6	SE SE	SCHAFFER WELL 8 - 540 FEET NORTH AND 460 FEET WEST FROM THE SE CORNER OF SECTION 6

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	43 E	WM	5	NW SW	12.8
16 S	43 E	WM	5	SW SW	36.1
16 S	43 E	WM	5	SE SW	24.4
16 S	43 E	WM	5	SW SE	4.2
16 S	43 E	WM	6	NE SW	10.1
16 S	43 E	WM	6	NE SE	35.1
16 S	43 E	WM	6	NW SE	32.8
16 S	43 E	WM	6	SW SE	3.8
16 S	43 E	WM	6	SE SE	16.8
16 S	43 E	WM	8	NE NE	3.1
16 S	43 E	WM	8	NW NE	37.0
16 S	43 E	WM	8	SW NE	3.4
16 S	43 E	WM	8	NE NW	23.0
16 S	43 E	WM	8	NW NW	3.6
Total					246.2

9. The Department received information from the applicant that re-describes the location of the authorized point of appropriation for Certificate 51778 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	6	SE SE	SHAFFER WELL 8 - 712 FEET NORTH AND 413 FEET WEST FROM THE SE CORNER OF SECTION 6

10. Transfer Application T-13104 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance for original point of appropriation in miles (mi.)
16 S	42 E	WM	1	SE SE	WELL 1 (NEW) - 1307 FEET NORTH AND 1307 FEET WEST FROM THE SE CORNER OF SECTION 1	1.2 mi.
16 S	43 E	WM	5	SW SW	WELL 5 - 175 FEET NORTH AND 921 FEET EAST FROM THE SW CORNER OF SECTION 5	0.3 mi.
16 S	43 E	WM	6	NW SE	WELL 14 - 1672 FEET NORTH AND 2614 FEET WEST FROM THE SE CORNER OF SECTION 6	0.5 mi.
16 S	43 E	WM	8	SW NE	WELL 11 - 1525 FEET SOUTH AND 2018 FEET WEST FROM THE NE CORNER OF SECTION 8	0.8 mi.

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

Certificate: 60415 in the name of GUM CREEK FARMS, INC. (perfected under Permit G-10460)

Use: IRRIGATION of 33.6 ACRES

Priority Date: FEBRUARY 5, 1981

Rate: 0.42 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.

Source: WELL 11 in the GUM CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	8	SW NE	WELL 11 - 1520 FEET SOUTH AND 1980 FEET WEST FROM THE NE CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	43 E	WM	8	NE NE	17.2
16 S	43 E	WM	8	NW NE	0.4
16 S	43 E	WM	8	SW NE	2.0
16 S	43 E	WM	8	SE NE	14.0
Total					33.6

12. The Department received information from the applicant that re-describes the location of the authorized point of appropriation for Certificate 60415 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	8	SW NE	WELL 11 - 1525 FEET SOUTH AND 2018 FEET WEST FROM THE NE CORNER OF SECTION 8

13. Transfer Application T-13104 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance for original point of appropriation in miles (mi.)
16 S	42 E	WM	1	SE SE	WELL 1 (NEW) - 1307 FEET NORTH AND 1307 FEET WEST FROM THE SE CORNER OF SECTION 1	1.9 mi.
16 S	43 E	WM	5	SW SW	WELL 5 - 175 FEET NORTH AND 921 FEET EAST FROM THE SW CORNER OF SECTION 5	0.5 mi.
16 S	43 E	WM	6	NW SE	WELL 14 - 1672 FEET NORTH AND 2614 FEET WEST FROM THE SE CORNER OF SECTION 6	1.3 mi.
16 S	43 E	WM	6	SE SE	WELL 8 - 712 FEET NORTH AND 413 FEET WEST FROM THE SE CORNER OF SECTION 6	0.8 mi.

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

Certificate: 82626 in the name of GUM CREEK FARMS (perfected under Permit G-10461)
Use: IRRIGATION of 60.4 ACRES
Priority Date: FEBRUARY 5, 1981
Rate: 0.76 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, and shall be further limited to appropriation of water only to the extent that it does not impair or substantially interfere with existing surface water rights of others.
Source: WELL #14 in the GUM CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	6	NE SW	WELL #14 - 1700 FEET NORTH AND 3350 FEET WEST FROM THE SE CORNER OF SECTION 6

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	43 E	WM	5	NE SW	4.9
16 S	43 E	WM	5	NW SW	3.7
16 S	43 E	WM	5	SW SW	1.1
16 S	43 E	WM	5	SE SW	16.9
16 S	43 E	WM	5	SW SE	22.1
16 S	43 E	WM	5	SE SE	3.9
16 S	43 E	WM	6	NW SE	4.5
16 S	43 E	WM	8	NE NE	2.1
16 S	43 E	WM	8	NW NE	1.2
Total					60.4

15. The Department received information from the applicant that re-describes the location of the authorized point of appropriation for Certificate 82626 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	43 E	WM	6	NW SE	WELL #14 - 1672 FEET NORTH AND 2614 FEET WEST FROM THE SE CORNER OF SECTION 6

16. Transfer Application T-13104 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance for original point of appropriation in miles (mi.)
16 S	42 E	WM	1	SE SE	WELL 1 (NEW) - 1307 FEET NORTH AND 1307 FEET WEST FROM THE SE CORNER OF SECTION 1	0.6 mi.
16 S	43 E	WM	5	SW SW	WELL 5 - 175 FEET NORTH AND 921 FEET EAST FROM THE SW CORNER OF SECTION 5	0.9 mi.
16 S	43 E	WM	6	SE SE	WELL 8 - 712 FEET NORTH AND 413 FEET WEST FROM THE SE CORNER OF SECTION 6	0.6 mi.
16 S	43 E	WM	8	SW NE	WELL 11 - 1525 FEET SOUTH AND 2018 FEET WEST FROM THE NE CORNER OF SECTION 8	1.4 mi.

Transfer Review Criteria (OAR 690-380-4010)

- 17. 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.
- 18. 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-13104.
- 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 additional points of appropriation proposed in Transfer Application T-13104 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-13104 is approved, the final order will include the following:

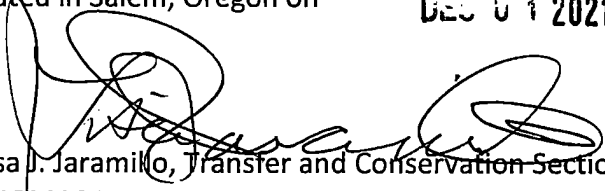
- 1. *The additional points of appropriation proposed in Transfer Application T-13104 are approved.*
- 2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 51777, 51778, 60415, and 82626, and any related decree.*

3. *Water right Certificates 51777, 51778, 60415, and 82626 are cancelled.*
4. *The quantity of water, as authorized under Certificate 51777, diverted at the new additional points of appropriation (Well 1 (New), Wells 8, 11, and 14), together with that diverted at the original point of appropriation (Shaffer Well 5), shall not exceed the quantity of water lawfully available at the original point of appropriation (Shaffer Well 5).*
5. *The quantity of water, as authorized under Certificate 51778, diverted at the new additional points of appropriation (Well 1 (New), Wells 5, 11, and 14), together with that diverted at the original point of appropriation (Shaffer Well 8), shall not exceed the quantity of water lawfully available at the original point of appropriation (Shaffer Well 8).*
6. *The quantity of water, as authorized under Certificate 60415, diverted at the new additional points of appropriation (Well 1 (New), Wells 5, 8, and 14), together with that diverted at the original point of appropriation (Well 11), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 11).*
7. *The quantity of water, as authorized under Certificate 82626, diverted at the new additional points of appropriation (Well 1 (New), Wells 5, 8, and 11), together with that diverted at the original point of appropriation (Well #14), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #14).*
8. *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.*
9. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
10. *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 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

DEC 01 2021



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

This Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-979-3917 or corey.a.courchane@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.