



Oregon

Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
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December 8, 2021

VIA CERTIFIED MAIL AND E-MAIL

Applicant

BLUE LINE FARMS INC.
C/O ROBERT DETTWYLER AND KARL H. DETTWYLER
4741 BRUSH CREEK DR NE
SILVERTON, OR 97381

SUBJECT: Water Right Transfer Application T-13620

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13620. 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; 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 Department's notice.

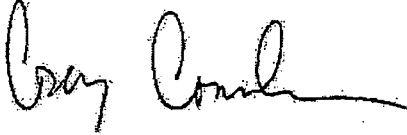
If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

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-13620
Gregory J. Wacker, District 16 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-13620, Marion County)	PROPOSING APPROVAL OF ADDITIONAL
)	POINTS 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

BLUE LINE FARMS INC.
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Findings of Fact

1. On March 4, 2021, BLUE LINE FARMS INC., C/O ROBERT DETTWYLER AND KARL H. DETTWYLER filed an application for additional points of diversion under Certificates 26918, 30734, 62138, and 66173. The Department assigned the application number T-13620.
2. Notice of the application for transfer was published on March 9, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 6, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13620 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of November 5, 2021, for the applicants to respond. The applicants 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.

4. On October 26, 2021, the applicant's agent requested to extend the date to complete full beneficial use of the water to October 1, 2024, allowing time to get fish screens approved and irrigate all acres involved with T-13620.

5. The first right to be transferred is as follows:

Certificate: 26918 in the name of KARL DETTWYLER (perfected under Permit S-21919)

Use: IRRIGATION of 28.1 ACRES

Priority Date: JUNE 26, 1951

Rate: 0.38 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: PUDDING RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
7 S	1 W	WM	5	SW NW

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
7 S	1 W	WM	5	SW NW		10.0
7 S	1 W	WM	5	NW SW	51	6.4
7 S	1 W	WM	5	SW SW	51	11.7
Total						28.1

6. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 26918 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	1 W	WM	5	SW NW	90 FEET NORTH AND 4080 FEET WEST FROM THE E1/4 CORNER OF SECTION 5

7. Transfer Application T-13620 proposes an additional point of diversion approximately 1051 feet upstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
7 S	1 W	WM	5	NE SW	1	POD 2 - 500 FEET SOUTH AND 3520 FEET WEST FROM THE E1/4 CORNER OF SECTION 5

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

Certificate: 30734 in the name of LARRY LINCOLN (perfected under Permit S-27235)
Use: IRRIGATION of 9.0 ACRES
Priority Date: MARCH 7, 1961
Rate: 0.11 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: PUDDING RIVER, a tributary of MOLALLA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot
7 S	1 W	WM	5	NE SW	1

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
7 S	1 W	WM	5	NE SW	1	6.0
7 S	1 W	WM	5	SE SW	2	3.0
Total						9.0

9. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 30734 as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
7 S	1 W	WM	5	NE SW	1	790 FEET SOUTH AND 3500 FEET WEST FROM THE E1/4 CORNER OF SECTION 5

10. Transfer Application T-13620 proposes an additional point of diversion approximately 275 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
7 S	1 W	WM	5	NE SW	1	POD 2 - 500 FEET SOUTH AND 3520 FEET WEST FROM THE E1/4 CORNER OF SECTION 5

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

Certificate: 62138 in the name of D. K. K. F. B. DAM; ROBERT DETTWYLER, AGENT (perfected under Permit S-34818)
Use: IRRIGATION of 19.4 ACRES
Priority Date: DECEMBER 12, 1969
Rate: 0.24 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 from direct flow and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage.

Source: THE PUDDING RIVER AND D. K. K. RESERVOIR CONSTRUCTED UNDER PERMIT R-3984, a tributary of THE MOLALLA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	1 W	WM	5	SW NW	POD - 90 FEET NORTH AND 4080 FEET WEST FROM THE E1/4 CORNER OF SECTION 5

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
7 S	1 W	WM	5	NW SW	51	18.8
7 S	1 W	WM	5	SW SW	51	0.6
Total						19.4

12. Transfer Application T-13620 proposes an additional point of diversion approximately 1051 feet upstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
7 S	1 W	WM	5	NE SW	1	POD 2 - 500 FEET SOUTH AND 3520 FEET WEST FROM THE E1/4 CORNER OF SECTION 5

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

Certificate: 66173 in the name of JERRY E. SCHURTER (perfected under Permit S-50085)

Use: SUPPLEMENTAL IRRIGATION of 5.8 ACRES

Priority Date: JULY 8, 1987

Rate: 0.07 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) from direct flow and 2.5 acre-feet for each acre irrigated during the irrigation season of each year from direct flow and storage. The right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

Source: THE PUDDING RIVER AND D. K. K. RESERVOIR CONSTRUCTED UNDER PERMIT R-3984, a tributary of THE MOLALLA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	1 W	WM	5	SW NW	POD - 90 FEET NORTH AND 4080 FEET WEST FROM THE E1/4 CORNER OF SECTION 5

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	1 W	WM	5	NE NW	0.5
7 S	1 W	WM	5	NW NW	1.3
7 S	1 W	WM	5	SW NW	2.0
7 S	1 W	WM	5	SE NW	2.0

14. Transfer Application T-13620 proposes an additional point of diversion approximately 1051 feet upstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
7 S	1 W	WM	5	NE SW	1	POD 2 - 500 FEET SOUTH AND 3520 FEET WEST FROM THE E1/4 CORNER OF SECTION 5

15. 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 not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

16. 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.
17. 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-13620.
18. The proposed change would not result in enlargement of the rights.
19. The proposed change would not result in injury to other water rights.
20. All other application requirements are met.

Determination and Proposed Action

The additional points of diversion proposed in Transfer Application T-13620 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.

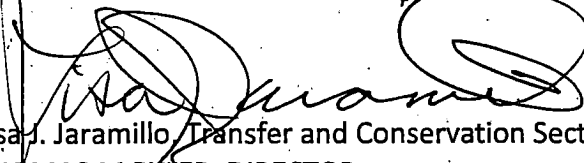
If Transfer Application T-13620 is approved, the final order will include the following:

- 1. The additional points of diversion proposed in Transfer Application T-13620 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 26918, 30734, 62138, and 66173, and any related decree.*
- 3. Water right Certificates 26918, 30734, 62138, and 66173 are cancelled.*
- 4. Under Certificate 26918, the quantity of water diverted at the new additional point of diversion (POD 2), together with that diverted at the original point of diversion (POD), shall not exceed the quantity of water lawfully available at the original point of diversion (POD).*
- 5. Under Certificate 30734, the quantity of water diverted at the new additional point of diversion (POD 2), together with that diverted at the original point of diversion (POD), shall not exceed the quantity of water lawfully available at the original point of diversion (POD).*
- 6. Under Certificate 62138, the quantity of water diverted at the new additional point of diversion (POD 2), together with that diverted at the original point of diversion (POD), shall not exceed the quantity of water lawfully available at the original point of diversion (POD).*
- 7. Under Certificate 66173, the quantity of water diverted at the new additional point of diversion (POD 2), together with that diverted at the original point of diversion (POD), shall not exceed the quantity of water lawfully available at the original point of diversion (POD).*
- 8. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*
- 9. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2024**. 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.*

10. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

DEC 08 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 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.

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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.

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