



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

JESSE AND TANYA VAN DE STROET
1524 290TH ST
INWOOD, IA 51240

SUBJECT: Water Right Transfer Application T-13550

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13550. 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.

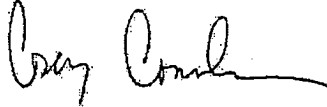
If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

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 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-13550
J R. Johnson, District 10 Watermaster (*via e-mail*)
Scott D. Montgomery, 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-13550, Harney County)	PROPOSING APPROVAL FOR 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.

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Findings of Fact

1. On November 16, 2020, JESSE AND TANYA VAN DE STROET filed an application for additional points of appropriation under Certificate 95221. The Department assigned the application number T-13550.
2. Notice of the application for transfer was published on November 24, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 20, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13550 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 20, 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.

3. The right to be transferred is as follows:

Certificate: 95221 in the name of JESSE VAN DE STROET AND TANYA VAN DE STROET
(perfected under Permit G-15965)

Use: IRRIGATION USE ON 231.5 ACRES

Priority Date: MARCH 10, 2005

Rate: 1.78 CUBIC FEET PER SECOND (CFS); FURTHER LIMITED TO 1.11 CFS FROM WELL 1 (HARN 50789) AND 0.67 CFS FROM WELL 2 (HARN 50285), IN ANY COMBINATION OR ITS EQUIVALENT IN CASE OF ROTATION, MEASURED AT EACH WELL

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 and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: WELL 1 AND WELL 2 IN MALHEUR SLOUGH BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	32.5 E	WM	20	NE SE	WELL 1 (T5) - 2258 NORTH AND 2609 FEET EAST FROM THE S1/4 CORNER OF SECTION 20
24 S	32.5 E	WM	21	NE SE	WELL 2 (T6) - 1120 FEET SOUTH AND 50 FEET WEST FROM THE E1/4 CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	32.5 E	WM	20	NE SE	31.9
24 S	32.5 E	WM	20	NW SE	31.9
24 S	32.5 E	WM	20	SW SE	31.9
24 S	32.5 E	WM	20	SE SE	31.9
24 S	32.5 E	WM	21	NE SE	26.0
24 S	32.5 E	WM	21	NW SE	26.0
24 S	32.5 E	WM	21	SW SE	25.9
24 S	32.5 E	WM	21	SE SE	26.0
Total					231.5

5. Transfer Application T-13550 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	32.5 E	WM	20	NE SE	WELL 1 (T5) - 2258 NORTH AND 2609 FEET EAST FROM THE S1/4 CORNER OF SECTION 20
24 S	32.5 E	WM	21	NE SE	WELL 2 (T6) - 1120 FEET SOUTH AND 50 FEET WEST FROM THE E1/4 CORNER OF SECTION 21
24 S	32.5 E	WM	21	SE SE	T3 (HARN 52456) - 50 FEET NORTH AND 160 FEET WEST FROM THE SE CORNER OF SECTION 21
24 S	32.5 E	WM	28	SE NW	T2 (HARN 51944/52119) - 1355 FEET SOUTH AND 1400 FEET EAST FROM THE NW CORNER OF SECTION 28

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	32.5 E	WM	29	NE NE	T1 (HARN 52215) - 1335 FEET NORTH AND 1395 FEET EAST FROM THE C1/4 CORNER OF SECTION 29
24 S	32.5 E	WM	29	NE SE	T4 (HARN 52624) - 410 FEET SOUTH AND 2490 FEET EAST FROM THE C1/4 CORNER OF SECTION 29

Approximate distance from original points of appropriation in miles (mi.)		
Well	WELL 1 (T5)	WELL 2 (T6)
T1 (HARN 52215)	0.7 mi.	1.3 mi.
T2 (HARN 51944/52119)	0.7 mi.	0.9 mi.
T3 (HARN 52456)	1.1 mi.	0.3 mi.
T4 (HARN 52624)	1.0 mi.	1.3 mi.
WELL 1 (T5)		1.0 mi.
WELL 2 (T6)	1.0 mi.	

Transfer Review Criteria (OAR 690-380-4010)

6. 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.
7. 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-13550.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.
10. All other application requirements are met.

Determination and Proposed Action

The additional points of appropriation proposed in Transfer Application T-13550 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.

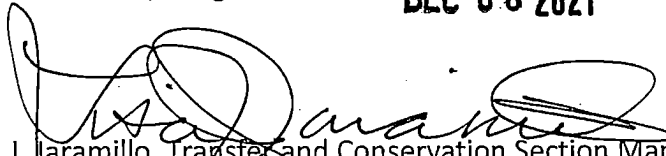
If Transfer Application T-13550 is approved, the final order will include the following:

- 1. The additional points of appropriation proposed in Transfer Application T-13550 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 95221 and any related decree.*
- 3. Water right Certificate 95221 is cancelled.*
- 4. The quantity of water diverted at the new additional points of appropriation (T1 (HARN 52215), T2 (HARN 51944/52119), T3 (HARN 52456), T4 (HARN 52624), WELL 1 (T5), and WELL 2 (T6)), together with that diverted at the original points of appropriation (WELL 1 (T5), and WELL 2 (T6)), shall not exceed the quantity of water lawfully available at the original points of appropriation (WELL 1 (T5), and WELL 2 (T6)).*
- 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 points 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 change 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.

Dated in Salem, Oregon on

DEC 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 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 service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>